

# HIRING PROCESS PROCEDURE FOR MOTOR CARRIERS KEEPING RECORDS REQUIREMENTS ANNUAL REVIEW RECORDS

## FMCSA SAFETY FITNESS STANDARD [CFR 385.5 and 385.7]

### DRIVER QUALIFICATION [CFR 391]

All Motor Carriers must maintain a qualification file for each employed driver. A driver qualification file check list may be helpful to ensure that all required documents and inquiries are obtained. A description of these documents required to be in each driver's qualification file is included in **CFR 391.51**, which also details the document retention requirements.

#### DRIVER APPLICATION FOR EMPLOYMENT

- 1- A driver must NOT drive a CMV unless an application for employment is completed and signed. CFR 391.21. All permissions, consents and receipt of policies, for running background records, must be signed to authorize to Motor Carrier to proceed.

Driver must provide a clear copy of his/her CDL, Medical Card (verifying the medical examiner is listed on National Registry after May 20, 2014 - CFR 391.51) and additional documents to verify his/her identification (I-9 form). Please, see this form information to be completed. Depending on the company logistic, drivers should have TWIC card and Sea Link card ( not FMCSA required).

- 2- **Non driver will be dispatched** until run all records required: MVR containing driving records for last 3 years immediately prior to the driver joining a new employer (CFR 391.23), Pre-Employment Drug test (negative result) Part 40.25(j) and CFR 382.301, Clearinghouse FULL Query Pre-Employment [CFR 382.701(a)] driver NOT PROHIBITED result, Pre-Employment Screening Program (PSP), containing reports regarding driving, and safety inspections history, crashes (DOT reportable accidents) from FMCSA.
- 3- Driving Road Test Certificate or Equivalent (CFR 391.31 and 33).
- 4- Safety Performance investigation from previous employers during the preceding 3 year (CFR 391.23). Motor Carrier should send 3 consecutive attempts in order to obtain these records, must be filed in DQ file all records obtained (also when previous employers don't answer the request and confirmation of all attempts sent).
- 5- DRIVER STATEMENT OF ON-DUTY HOURS [CFR 395.8(J)(2)]. Motor Carriers, when using a driver for first time shall obtain form the driver a signed statement giving the total time on-duty during the immediately preceding 7 days and time at which such driver was last relieved from duty prior to beginning work for such carrier.
- 6- ENTRY-LEVEL DRIVER TRAINING CERTIFICATE ( CFR 380.509). All drivers are required to receive training under this rule with required certification by the Motor Carrier. All drivers with LESS THAN ONE YEAR of commercial driving experience are required to complete training, which must be provided by the Motor Carrier surrounding four topics including:
  - Driver Qualification, Medical Examinations, Drug & Alcohol Testing
  - Hours of Services for Drivers
  - Driver Wellness
  - Whistleblower Protection

The ELDT requirements do not apply to individuals with a valid CDL, or an S,P or H endorsement issued before February 7, 2022.

Drivers with more than one year of experience as outlined above may be "Grandfathered" into compliance if certain safety performance standards are met by the driver.

FMCSA EVIDENCE OF SAFETY TRAINING: CFR 392 requires that drivers are trained prior to performing regulated functions. This documentation is NOT mandated to be within the DQ file, but is often requested during an FMCSA audit and can be stored in the driver file.

- 7- All records must be filed in a DQ and keep them valid and updated during the time the driver is a Motor Carrier employee and for 3 years after Termination.

#### **FOR CDL DRIVERS OWNER OPERATORS:**

- 8- Non driver will be dispatched until the CMV registration will be under Motor Carrier Responsible for Safety USDOT number, name and address. Drivers will sign a required Lease Agreement.
- 9- Non driver will be dispatched until submit valid and current Annual Inspection and at least 2 previous months of basic record of maintenance like: change of oil engine, tire rotation, brake adjustment, monthly records of maintenance and preventive inspections.
- 10- Non driver will be dispatched without visual inspection by Motor Carrier of : properly ELD mounting on dashboard and connections to engine are correct, 8 blanket paper logbooks in case of malfunction, ELD manual on board, properly place of door marking, Driver's handbook with all memorandums, emergency contact information, truck documents, special permits (if applicable), minimum toolbox with spare fuses, bulbs, tweezers and any necessary tools for fixing light mechanical issues, air gauges for flat tires or under inflation tires.
- 11- Emergency equipment complete and in good standing.
- 12- Fire extinguished in place, secured and in operating conditions.
- 13- Bobtail insurance and Workers Compensation (if State regulation applies)

Truck information and maintenance records will be filed in a Truck File during the time the CMV is under Motor Carrier control and 3 years after Termination.

#### **FOR CDL COMPANY DRIVERS:**

Motor Carrier will be responsible for keeping in file, all maintenance records at any time at physical motor carrier address, as well as owner's operators records, during the CMV belongs to the company (keeping the last 3 years) and after being sold or dismissed for 3 years too.

#### **ANNUAL REVIEW OF RECORDS: MVR AND CLEARINGHOUSE QUERY**

- 14- During the 12-month period from the Hire Date, Motor Carrier is responsible for running MVR annual review (CFR 391.25) and complete signed Annual Certificate of Violations (CFR 391.27) evaluating if driver meets the minimum safety requirements. If not, Motor Carrier will be responsible for taking actions to prevent any Unsafe Driving, Accident or Disqualification.
- 15- During the 12-month period from the Hire Date, Motor Carrier is responsible for running ANNUAL LIMITED QUERY. CFR 382.701(B)

These records will be kept in the DQ file as per FMCSA keeping records rules.

FMCSA will notify Motor Carrier by email if a driver they have queried has new information (such as an updated return-to-duty status, a removed violation, or a new violation) recorded in their Clearinghouse record within 12 months of a pre-employment or annual query. The Query History will also be updated to reflect that new information is available. This change is permitted as a "routine use" of the driver's information under the Privacy Act and is set forth in FMCSA's System of Records Notice for the Clearinghouse, accessible at 2019-22915.pdf (govinfo.gov).

**Note:** Previously, email notifications about new driver information were sent to employers within 30 days of a conducting pre-employment queries only. This has been expanded as described above.

## TERMINATION:

- 16- When the driver is terminated or left, the Safety Manager will request to the driver to return all items provided for the duties.
- 17- Motor Carrier will send a fax to IRP notifying such registration is no longer under Motor Carrier Authority, to prevent any misuse of this credential after leaving.
- 18- Picture or door placard pieces removed from CMV.

**NOTE :** DQ File must contains as well: all random drug and alcohol testing results, post-accident drug and alcohol testing results, return to duty, follow ups, SAP certificates (if applicable), certificates of training, warning, suspension or termination letters, notices of safety violations and corrective actions, any email sent from CLEARINGHOUSE reporting any change for all drivers who were queried. CFR 382.701.

# KEEPING RECORDS CHART



## Record Keeping Requirements FMCSA Motorcoach Safety Compliance

FMCSA's 18-CARAT program supports motorcoach carriers who have an upcoming safety compliance investigation within the next 18 months through Compliance Assistance and Regulatory Accountability Training (CARAT). Use this handout as a reminder of the safety compliance record keeping requirements.

### DRIVER QUALIFICATION

#### Life of Employment + 3 Years

- Driver application
- Previous employer inquiries
- Original inquiry to State agencies
- Driver's road test

#### 3 Years

- Medical examiner's certificate
- National registry verification
- Annual review of qualification

#### Life of Employment + 1 Year

- Entry-level driver training records

### VEHICLE MAINTENANCE

#### 1 Year

(and 6 months after the vehicle leaves the motor carrier's control)

- Maintenance files required by part 396.3

#### 90 Days

- Driver Vehicle Inspection Reports (DVIRs) completed daily, when required by 49 CFR 396.11(a)

#### 14 Months

- Periodic inspections completed at least once every 12 months

### DRUG AND ALCOHOL TESTING

#### 5 Years

- Alcohol tests .02 or greater
- Verified positive controlled substance test results
- Documentation of refusals
- Driver evaluations and referrals
- Calibration documents
- Administration records related to drug and alcohol testing, including violations
- Annual summaries

#### 2 Years

- Drug and alcohol collection process records

#### 1 Year

- Negative and cancelled drug and alcohol testing results

#### Indefinite

(and 2 years after individual no longer performs function)

- Records related to education and training of Breath Alcohol Technicians (BAT), Screening Test Technicians (STT), Supervisors and drivers

### HOURS OF SERVICE

#### 6 Months

##### Carrier Requirements

- Records of Duty status
- Timecards
- Electronic Logging Devices (ELDs)
- Supporting documents

\*There are some documents used as HOS supporting documents which have longer record retention periods, such as payroll records, insurance records, etc. See Part 379 Appendix A for Schedule of Records and Periods of Retention.

#### 8 Days

##### Driver Requirements

- On-duty for inspection

