



May 7, 2019

The Honorable Raymond P. Martinez  
Federal Motor Carrier Safety Administration  
United States Department of Transportation  
1200 New Jersey Avenue SE  
Washington, D.C. 20590

Re: Comment Regarding Proposed Rulemaking on the Qualification of Drivers; Employment Application (Docket No. FMCSA–2018–0247)

Dear Administrator Martinez:

The National Association of Professional Background Screeners (“NAPBS”) is the trusted global authority for the screening profession. In pursuit of their mission to advance excellence in the screening profession, NAPBS promotes and advocates for ethical business practices and fosters awareness of privacy rights and consumer protection issues. NAPBS is an international trade association of over 800 member companies. Its members provide employment and tenant background screening and related services to virtually every industry, including motor carriers. The reports prepared by NAPBS’s background screening members are used by employers and property managers every day to ensure that workplaces, roadways and residential communities are safe for all who work, reside or use them.

NAPBS members range from large background screening companies to individually-owned businesses, each of which must comply with applicable law, including when they obtain, handle, or use public record and private data. NAPBS members also include suppliers of background screening information such as court-record retrieval services and companies that provide access to public record data to background screeners.

As the Federal Motor Carrier Safety Administration considers modifying the present requirement that prospective drivers complete an employment application, NAPBS welcomes the opportunity to comment. Our comment concerns the importance of preserving 49 CFR 391.21, especially the requirement that prospective drivers provide future employers with key identifiers that facilitate an effective background screening process. As such, NAPBS respectfully submits the following comment regarding the importance of including identifiers, such as dates of birth and social security numbers, as a part of the prospective driver application.

Each year, millions of Americans applying for employment are served by background screening firms across the country. Schools need to prevent violent predators from gaining access to our children. Financial institutions need to identify individuals who have committed fraud. Utilities need to reduce the threat of harm to critical infrastructure by denying at-risk individuals entry to their facilities. Similarly, employers of commercial motor vehicle drivers must not only protect their workplace, but also the road in our communities.



Any revision to 49 CFR 391.21 that eliminates or modifies the employment application so that it does not collect personal identifying information means it will become substantially more difficult to determine whether any specific record relates to an applicant for employment. According to federal law, background screening firms must follow reasonable procedures to assure maximum possible accuracy, and this includes accurately matching criminal records to applicants. In most cases, a mere name match alone does not satisfy the requirements of federal law. This results in false negatives. An NAPBS member may very well discover a record on a "John Smith", but without other key identifiers like a date of birth and a social security number, they would not report that record to their customer, the motor carrier. Moreover, customers may be hiring Mr. Smith to work in a sensitive industry or position, such as one requiring the operation of a commercial motor vehicle, which can directly affect the safety of other individuals. I can assure you - this is a very real scenario, and it happens more often than you might think. Without the right tools to perform thorough background checks on these individuals, we are putting our communities at serious risk.

Further, removing identifiers from the driver application will unnecessarily prolong the background screening process for those seeking and securing employment. If identifiers are not included in the initial application, job applicants may be required to submit additional background materials. Many applicants may be unable to do so quickly, whether it be due to a lack of access to technology or because they are working on the road. In addition, for those that do secure employment, the lack of identifiers in an initial application will extend the background check process and cause an undue delay in putting them to work.

In summary, NAPBS respectfully requests that the Federal Motor Carrier Safety Administration preserve 49 CFR 391.21, especially the requirement that prospective commercial motor vehicle drivers provide future employers with key identifiers that facilitate an appropriate background screening process. Eliminating the employment application generally, or modifying the application to no longer require the disclosure of these identifiers, will prolong the background screening conducted by NAPBS members, delay the hiring of qualified candidates, and impede the efforts of employers seeking accurate background checks used to help ensure road safety.

NAPBS thanks the Federal Motor Carrier Safety Administration for the opportunity to share its comment regarding revisions to 49 CFR 391.21 and sincerely hopes its comment can be addressed during the review process. NAPBS and its members are available and prepared to discuss any questions regarding our industry or the aforementioned concerns. Thank you for accepting our comment and we look forward to working with you further.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa Sorenson", written in a cursive style.

Melissa Sorenson, Esq.

Executive Director