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Supp. Info File

**MEMO TO THE DOCKET**  
8/1/96

Safety Performance History of New Drivers Notice of Proposed Rulemaking  
Docket Number MC-96-6

**Subject:** Summary of FHWA Meeting with DAC Services, Krukowski & Costello, and the American Trucking Associations

**Date:** July 31, 1996  
**Time:** 10:00 a.m. - 11:15 a.m.

**Attendees:**

FHWA-97-2277-36

**ATA**

John J. Collins  
Senior Vice President,  
Government Affairs

Laurie T. Baulig, Esq.  
Vice President,  
Labor and Human Resources Policy

Neill Darmstadter  
Senior Safety Engineer

**Krukowski & Costello**  
Robert A. Hirsch, Attorney at Law

**DAC Services**  
Richard A. Wimbish  
President, DAC

Billie Meador  
Vice President, Marketing

Derek Hinton  
Director of Communications

**FHWA Office of Chief Counsel**  
Paul Brennan  
Chief, Motor Carrier Law Division

Grace Reidy  
Attorney

**FHWA, Office of Motor Carriers**  
Neill Thomas  
Chief, Vehicle Division

Valerie Height  
Transportation Specialist

**Synopsis:**

On July 31, 1996, at 10:00 a.m. representatives from the American Trucking Associations, DAC Services, and Krukowski & Costello (counsel for DAC) met with FHWA at the U.S. Department of Transportation, 400 7th Street, S.W., in Room 4213. This meeting was requested by

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John Collins of ATA on behalf of DAC Services. The purpose of the meeting was for ATA and DAC to educate the FHWA as to the electronic employment investigation process used by many truckload motor carriers and share information with the FHWA concerning DAC's capacity to act as third party provider of information proposed to be required under the proposed rule.

The American Trucking Associations is the national trade association of the trucking industry, serving the nine million people and 322,000 companies involved in trucking. DAC Services assists transportation companies in the process of hiring drivers by providing pre-employment and insurance underwriting screening information. DAC's clients include more than 85% of the top 200 motor carriers in the country. DAC is endorsed by the American Trucking Associations and 39 state trucking associations. Krukowski & Costello is the legal firm representing DAC Services.

The Safety Performance History final rule sets forth the minimum safety factors to be obtained from previous employers during the investigation of a driver's employment history. DAC Services provides a wide variety of information on a driver and is concerned that the rule not limit their ability to continue to collect and share this information.

DAC spokespersons generally discussed the motor carrier hiring procedures, DAC's screening informational process, and the information retrieval service used by its subscribers. The trucking industry screening/hiring process is very unique in that applicants are often hired without ever seeing the individual for whom they will work, due to electronic submission of applications. Also, DAC and ATA described the motor carrier industry as having a very high turnover rate of employment and the fact that it is not unusual for truck drivers to work for many different employers during the course of their driving career. DAC described the process as follows:

- I. Driver applications may be submitted via:
  - A. live people over the telephone
  - B. telephonic interaction with automated systems
  - C. job fairs
  - D. the World Wide Web and electronic mail
  - E. carrier terminal locations
  - F. walk-ins
  
- II. Pre-offer screening procedures include:
  - A. Prospective employer mails a *printed* application to the driver
  - B. Some prospective employers obtain applicant's written release for obtaining drug/alcohol information at this time
  - C. Prospective employers request non drug/alcohol driver employment information from DAC
  - D. Prospective employer requests non drug/alcohol driver employment information from previous employers who have no information in the DAC database
  - E. Prospective employer notifies unqualified applicants
  - F. Prospective employer makes conditional offer of employment to qualified applicants

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III. Additional Screening for Qualified Applicants

- A. Prospective employer obtains applicant's written consent to obtain drug/alcohol information.
- B. Prospective employer faxes the driver's written consent to DAC Services and requests driver's drug/alcohol history.
- C. DAC Services investigates and provides applicant's drug/alcohol history to prospective employer.
- C. Prospective employer provides driver's written consent to previous employers who have not given information to DAC and requests driver's drug/alcohol information.

IV. Notification of Unqualified Applicants

- A. Prospective employer gives the driver written notification of nonselection. If the driver was not selected based on information provided by DAC, the prospective employer informs the driver of how to obtain driver data from DAC.
- B. If driver requests, DAC forwards the driver's complete data file to him/her.
- C. DAC provides the driver an opportunity to review and comment on the information.
- D. DAC verifies the driver's account.
- E. DAC updates the driver's data file, as appropriate.

DAC emphasized that its service is regulated by the Fair Credit Reporting Act which protects the rights of the applicants and defines the responsibilities of providers of consumer data. The driver is given an opportunity to review and comment on his/her record. If the driver dissents with the carrier's account, the driver is afforded an opportunity to add information to the record. The driver's account is then forwarded to the carrier. If the carrier agrees with the driver's account, the carrier's information is purged from the system and the record is updated with the driver's account. If the carrier disagrees with the driver's account, the record is updated to append the driver's account to that of the carrier's. DAC stated that it complies with the Fair Credit Reporting Act because it is a provider of consumer information; as such the records it maintains on the drivers are subject to release to the drivers.

FHWA asked clarifying questions throughout the presentation.

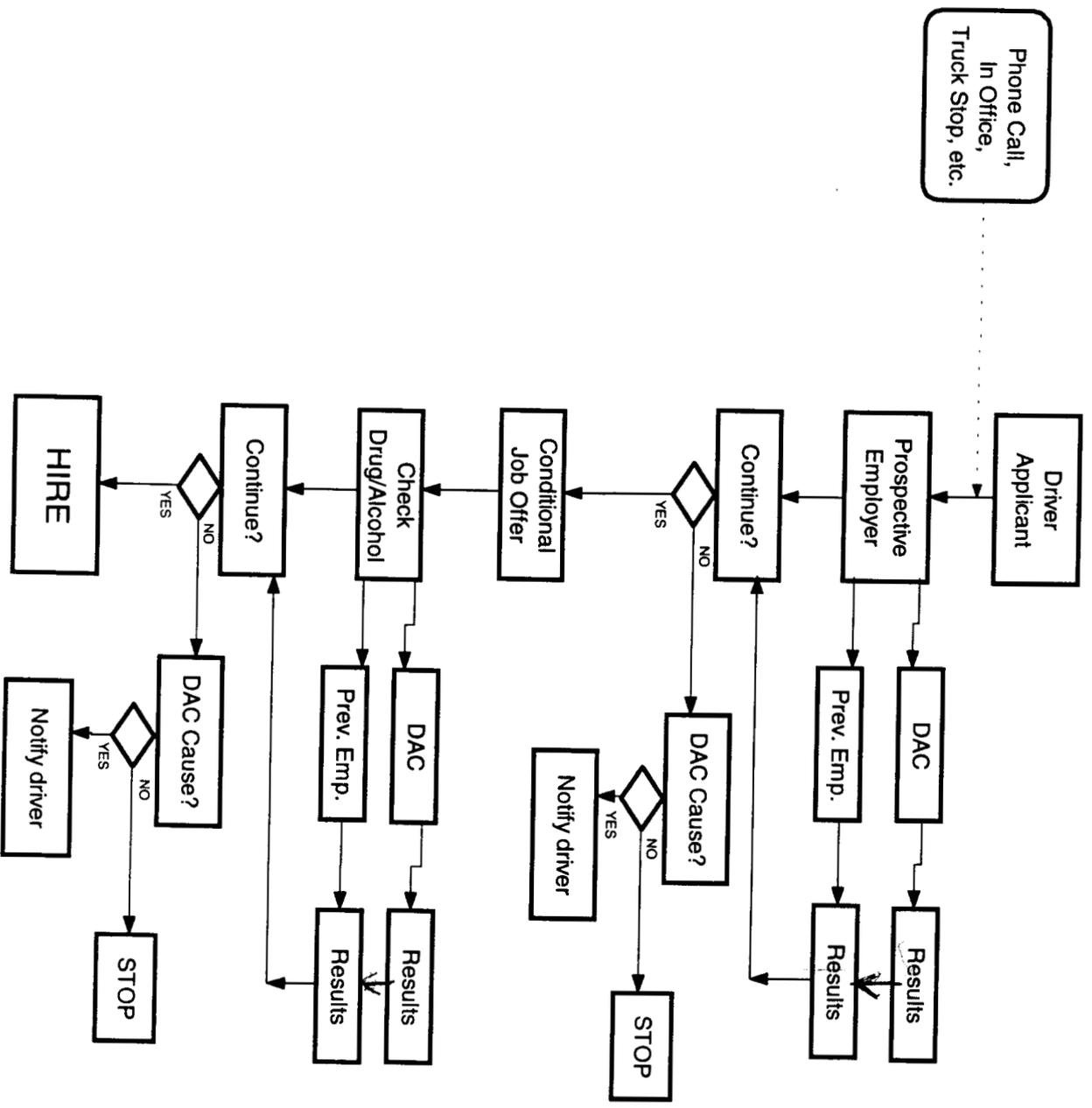
ATA concluded by expressing concern that the proposed requirement under §382.413(a)(2), the so-called "daisy-chain" requirement, would adversely affect DAC Services. (The term "daisy-chain" refers to the proposal that previous employers be required to pass along to prospective employers any drug and alcohol information about the driver that was obtained from other previous employers.)

When one of DAC's subscribers goes out of business, DAC deletes from its database any negative driver information provided by the subscriber. This is done because DAC can no longer verify the information with the motor carrier if a driver disputes it. Additionally, all driver information is purged from DAC databases after it has been retained for 7 years.

The presentation handouts will be made a part of the docket. The meeting concluded at 11:15 a.m.

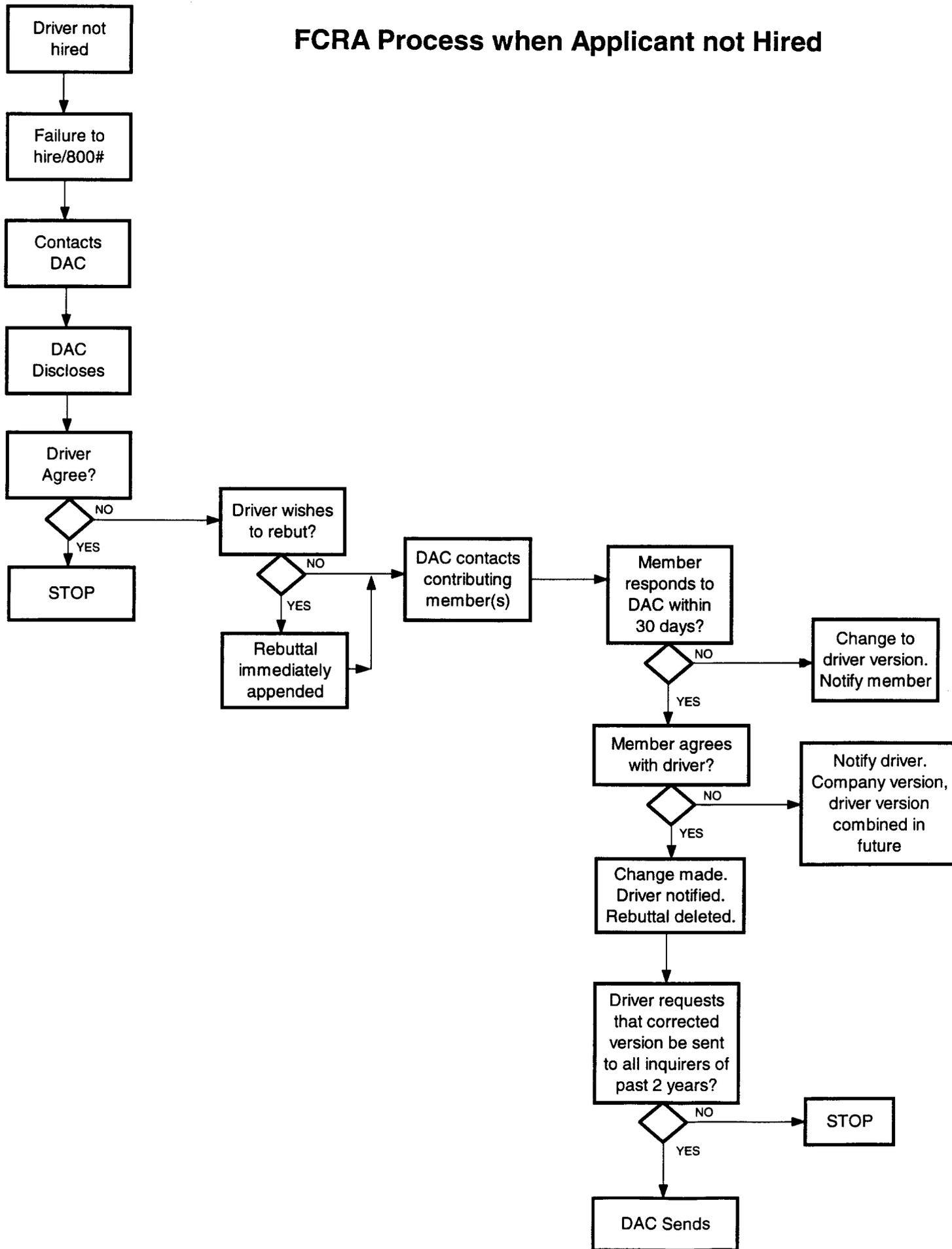
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**DOCKET** mc-96-6

# Screening/Hiring Process



**SUPPLEMENTAL INFORMATION**  
**DOCKET** mc-96-6

# FCRA Process when Applicant not Hired





TERMINATION RECORD

Credit Value \$2.40

1 MEMBER I.D. #

2 INDIVIDUAL'S LAST NAME FIRST NAME INITIAL
3 SOCIAL SECURITY # 4 PERIOD OF SERVICE: from Mo. Yr. to Mo. Yr. 5 # OF ACCIDENTS
6 STATE LICENSE # STATE LICENSE #

IMPORTANT NOTICE: Refer to "Guide" for full explanation of codes below (Form G0993)

7 Eligible for Rehire 001 Yes 002 Yes, but against company policy
003 No 004 Review required before rehiring

8 REASON FOR LEAVING (Circle Only One)
101 Discharged (or Company Terminated Lease)
106 Laid Off (or Lease Suspended)
112 Leave of Absence
127 Retired
133 Resigned/Quit (or Driver Terminated Lease)
199 Other

9 STATUS (Circle All That Apply)
202 Company Driver
207 Lease Driver (Employee of Independent Contractor)
213 Owner/Operator
228 Trip Leaser
230 Student/Trainee
234 Casual Driver
299 Other

10 DRIVER'S EXPERIENCE (Circle All That Apply)
303 Local
311 Mountain Driving
327 Over the Road
332 Single Driver
333 Driver Trainer
351 1st Driver of a Team
352 2nd Driver of a Team
355 Freight Handling
399 Other

11 EQUIPMENT OPERATED (Circle All That Apply)
504 Automobile
505 Auto Transporter
511 Bus
516 Double Trailer
523 Driveaway/Towaway
527 Dry Box
529 Dump Truck
532 Flat Bed
534 Pick Up or Hot Shot
540 Refrigerated
542 Specialized Trailer
544 Specialized Truck/Toter
547 Straight Truck
552 Tank Truck
557 Taxi
562 Triple Trailer
573 Van
581 Winch
599 Other

12 LOADS HAULED (Circle All That Apply)
707 Bulk Commodity
712 Container
713 Empty Trailer
714 Gen. Commodity
716 Electronics
718 Hanging Meat
720 Hazardous Material
725 Household Goods
729 Livestock
730 Lumber
731 Machinery
733 Mobile Homes
735 Motor Vehicles
762 Oversized Loads
763 Parcels
750 Passengers
764 Pipe
769 Refrigerated
773 Steel
799 Other

13 WORK RECORD (Circle All That Apply)
901 Satisfactory
902 Superior
903 Outstanding
911 Complaints
913 Cargo Loss
917 Equipment Loss
915 Falsified Employ. Application
924 Late Pick Up/Delivery
926 Log Violation
928 No Show
929 Failed To Report Accident
931 Quit Under Dispatch
933 Quit/Dismissed During Training and/or Orientation
957 Unauthorized Equip. Use
959 Unauthorized Passenger
961 Unauthorized Use of Company Funds
935 Company Policy Violation
938 Unsatisfactory Safety Record
944 Personal Contact Requested
999 Other

QUIT UNDER LOAD/ABANDONMENT (Circle Only One)
950 Co. Terminal - With Notice
951 Auth. Location - With Notice
952 Co. Terminal - W/O Notice
953 Unauth. Location - W/O Notice
954 Left Vehicle With Team Driver
955 Unauth. Location - With Notice
956 Auth. Location - W/O Notice

14 Prepared By Date
15 Entered By Date

DAC SERVICES 4110 S. 100TH E. AVE., TULSA, OK 74146
DAC 800 331-9175 (Nationwide) DAC Customer Service 800 322-9651

16 This space for changes only TO CHANGE THIS RECORD
Record Identification Number
Signature approving change
Title
Current date



## GUIDE TO TERMINATION RECORD FORM

- 1 MEMBER ID #:** Record the customer number assigned by DAC.
- 2 LAST NAME AND FIRST INITIAL OF FIRST NAME:** Record driver's last name with no space and no punctuation. In the box at the end of this line, record the first initial of the driver's first name.
- 3 SOCIAL SECURITY NUMBER:** Record driver's Social Security number.
- 4 PERIOD OF SERVICE:** Record period of service using starting month and year to terminating month and year (MMYY to MMY).
- 5 NUMBER OF ACCIDENTS:** Record total number of accidents whether preventable, non-preventable; chargeable or non-chargeable. The number of accidents does not necessarily reflect fault on the part of the driver involved. Documentation in the driver's file is recommended for each accident recorded.
- 6 STATES OF LICENSE:** Record the post office abbreviation for the state or states in which the driver has held licenses while with your company. Record license number or numbers omitting all spaces and dashes.
- 7 ELIGIBLE FOR REHIRE** (circle **only one** code)
- 001 Yes: Driver is eligible for rehire.
  - 002 Yes, but against company policy: Driver is qualified, but your company has a policy against rehiring drivers regardless of qualifications.
  - 003 No: Driver is ineligible for rehire based on current company standards.
  - 004 Review required before rehiring.
- 8 REASON FOR LEAVING** (circle **only one** code)
- 101 Discharged: Employment or lease is involuntarily terminated.
  - 106 Laid off: Driver is laid off or lease has been suspended due to business reasons unrelated to performance.
  - 112 Leave of Absence: Company approved leave without pay.
  - 127 Retired: Driver retires.
  - 133 Resigned/Quit: Employment or lease is voluntarily terminated.
  - 199 **Other: Anything other than items listed above. This blank space is provided for your documentation. DAC's computer will record "other" only.**
- 9 STATUS** (You may circle **more than one** code)
- 202 Company Driver: An employee of the company.
  - 207 Lease driver: Employee of an independent contractor.
  - 213 Owner/operator: A person who owns and drives his own equipment for a company as its employee or as an independent contractor.
  - 228 Trip Leaser: Driver is acting as an independent operator or as an agent of a carrier contracting with your company for specific loads hauled on a trip by trip basis.
  - 230 Student/Trainee: A student or trainee of the company.
  - 234 Casual Driver: A driver hired to drive on an intermittent, casual, or occasional basis who may or may not be an employee of the company.
  - 299 **Other: Anything other than items listed above (see 199).**
- 10 DRIVER'S EXPERIENCE** (You may circle **more than one** code)
- 303 Local: Driver had substantial city driving experience.
  - 311 Mountain driving: Driver had substantial mountain driving experience.
  - 327 Over-the-Road: Driver had substantial long haul driving experience.
  - 332 Single Driver: Driver had sole responsibility for equipment and substantial experience driving alone.
  - 333 Driver Trainer: Driver had substantial road experience training students and/or trainees.
  - 351 1st driver of a Team: Driver had primary responsibility in a two-member team.
  - 352 2nd driver of a Team: Driver had secondary responsibility in a two-member team.
  - 355 Freight Handling: Driver had substantial experience loading and unloading freight.
  - 399 **Other: Anything other than items listed above (see 199).**
- 11 EQUIPMENT OPERATED** (You may circle **more than one** code)
- 504 Automobile: Automobile, including station wagon and limousine but excluding taxi and van (See 557 for Taxi or 573 for Van).
  - 505 Auto transporter: Truck, semi-trailer, or trailer with the body designed for the transportation of other vehicles.
  - 511 Bus: A motor vehicle designed, constructed and used for the transportation of passengers.
  - 516 Double trailer: (Also twin trailer-unit) consists of tractor, semi-trailer and full trailer.
  - 523 Driveaway/Towaway: Motor vehicle(s) or trailer(s) constitute the commodity being transported. One or more sets of wheels of such vehicles are on the road during transportation.
  - 527 Dry box: Enclosed semi-trailer.
  - 529 Dump truck: Truck, semi-trailer or trailer which can be tilted to discharge load.
  - 532 Flat bed: Truck or trailer without sides or top.
  - 534 Pick-Up or Hot Shot: Up to one ton truck with or without a trailer.
  - 540 Refrigerated: Refrigerated truck or trailer designed for hauling perishables.
  - 542 Specialized trailer: A trailer designed for a specific purpose not included in the other categories listed (e.g. missile carrier).
  - 544 Specialized truck/Toter: A straight truck/tractor with the body designed for a specific purpose other than those listed in other categories here (e.g. concrete, refuse, etc.).
  - 547 Straight truck: A truck with the body and engine mounted on the same chassis and not listed elsewhere under equipment operated.
  - 552 Tank truck: Truck, semi-trailer, or trailer with a tank body for hauling petroleum, chemicals, liquids, or dry commodities in bulk.
  - 557 Taxi: Automobiles or vans used for transporting passengers who pay fares.
  - 562 Triple trailer: Tractor, semi-trailer plus two trailers.
  - 573 Van: Van, including step van.
  - 581 Winch: Hoist used on straight truck or tractor (includes gin pole).
  - 599 **Other: Anything other than items listed above (see 199).**

**12 LOADS HAULED** (You may circle **more than one** code)

- 707 Bulk commodity: Liquid or dry bulk.
- 712 Containers: Hauling of large cargo-carrying containers that can be easily interchanged between trucks, trains, and ships, without rehandling contents.
- 713 Empty trailer: Driver delivers empty trailers – does not apply to deadheading.
- 714 General Commodity: Varied types of freight.
- 716 Electronics: Transporting electronic commodities requiring special handling.
- 718 Hanging meat: Self explanatory.
- 720 Hazardous material: As designated by the Department of Transportation including but not limited to: explosives, radioactive materials, etiologic agents, flammable liquid or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases.
- 725 Household goods: Self explanatory.
- 729 Livestock: Transporting cattle, horses, etc.
- 730 Lumber: Self explanatory.
- 731 Machinery: Self explanatory.
- 733 Mobile homes: Self explanatory.
- 735 Motor vehicles: Transporting of motor vehicles by hauling them on special vehicles or through driveway-towaway.
- 762 Oversized loads: Loads requiring special permits due to size or weight.
- 763 Parcels: Parcels and packages.
- 750 Passengers: People.
- 764 Pipe: Self explanatory.
- 769 Refrigerated: Self explanatory (not including hanging meat).
- 773 Steel: Other than pipe.
- 799 **Other: Anything other than items listed above (see 199).**

**13 WORK RECORD**

It is strongly recommended that items denoting less than satisfactory performance **be supported by documentation** in the driver's file (You may circle **more than one** code).

- 901 Satisfactory: Driver meets minimum company standards of performance in all categories.
- 902 Superior: Driver exceeds minimum company standards of performance in all categories.
- 903 Outstanding: Driver's performance is outstanding in all categories.
- 911 Complaints: An excessive number of complaints have been received regarding the driver's service and/or safety.
- 913 Cargo loss: Cargo was lost, stolen, damaged or destroyed while assigned or under direct responsibility of the driver.
- 917 Equipment loss: Equipment was lost, stolen, damaged or destroyed while assigned to or under direct responsibility of driver.
- 915 Falsified Employment Application: Falsified information on employment application or omitted information as required by company, state, or federal regulations.
- 924 Late pick up/Delivery: Failed to make pickup or delivery according to schedule.
- 926 Log Violation: Violation of Federal Motor Carrier Safety Regulations, "Hours of Service", part 395.
- 928 No show: Driver failed to appear on job site without notification or approval of supervisor. Driver has hauled previous loads for the company.
- 929 Failed To Report Accident: Driver violated accident reporting requirements while in the service of the company.
- 931 Quit Under Dispatch: Driver was available for work, assigned a load but quit before load was secured. Driver **did not possess a load.**
- 933 Quit/Dismissed During Training and/or Orientation: Driver **did not** complete company training and/or orientation. **If the driver quit or was dismissed during orientation, leave sections 10, 11 & 12 blank and do not provide further information to section 13.**
- 957 Unauthorized equipment use: Deviated from route or used equipment for purposes not specified by company. (Not intended to be used when the driver has resigned/quit or terminated lease and returned equipment to the nearest company terminal or a location authorized by the company.)
- 959 Unauthorized passenger: Passenger in company vehicle contrary to company policy or did not meet company policy requirements covering authorized passenger.
- 961 Unauthorized Use of Company Funds: Driver used company funds for purposes not authorized by company.
- 935 Company policy violation: Driver violated company policies and/or procedures.
- 938 Unsatisfactory Safety Record: Driver did not meet company safety standards.
- 944 Personal Contact Requested: Company issuing record has further information to provide regarding the driver or for the driver.
- 999 **Other: Anything other than items listed above (see 199).**

**QUIT UNDER LOAD/ABANDONMENT:** Quit job before truck and/or cargo was delivered to final destination.

(Circle **only one** code)

- 950 Co. Terminal – With Notice: Left truck and/or cargo at a company terminal. Driver **did** notify the company of termination. (Not intended to be used when the driver has resigned/quit or terminated lease and returned equipment to the nearest company terminal or a location authorized by the company.)
- 951 Auth. Location – With Notice: Left truck and/or cargo at a location authorized by the company. Driver **did** notify the company of termination.
- 952 Co. Terminal – W/O Notice: Left truck and/or cargo at a company terminal. Driver **did not** notify the company of termination. (Not intended to be used when the driver has resigned/quit or terminated lease and returned equipment to the nearest company terminal.)
- 953 Unauth. Location – W/O Notice: Left truck and/or cargo at a location unauthorized by the company. Driver **did not** notify the company of termination.
- 954 Left Vehicle With Team Driver: Left truck and/or cargo in the possession of a team driver.
- 955 Unauth. Location – With Notice: Left truck and/or cargo at a location unauthorized by the company. Driver **did** notify the company of termination.
- 956 Auth. Location – W/O Notice: Left truck and/or cargo at a location authorized by the company. Driver **did not** notify the company of termination.

The following codes are no longer available, but could appear on older termination records.

- 909 Abandonment: Abandoned truck and/or cargo **without** notification to the company.
- 937 Quit Under Load: Quit job before truck and/or cargo was delivered to final destination. Assumes that driver **did** notify company of termination.

**14 PREPARED BY:** Signature of individual completing form and date.

**15 ENTERED BY:** Signature of individual entering data into DAC's computer and date.

**16 TO CHANGE THIS RECORD:** This space to be completed only in the event the record needs changing in the future. See Manual for instructions, "Changing A Record Of A Terminated Driver."

**DAC SERVICES 4110 S. 100TH E. AVE., TULSA, OK 74146**  
**DAC 800 331-9175 (Nationwide) DAC Customer Service 800 322-9651**



**DAC SERVICES' COMPLIANCE WITH  
THE FCRA  
AND DOT**

NATIONWIDE 800-331-9175, DAC Customer Service 800-322-9651, DAC FAX 918-664-9074

DAC SERVICES - MEMBER COMPLIANCE WITH THE DEPARTMENT OF TRANSPORTATION (DOT) AND THE FAIR CREDIT REPORTING ACT (FCRA)

PURPOSE: The purpose of this document is to address questions regarding DAC's program for job related information on professional drivers among its members.

DOT REQUIREMENTS: Section 391.23 of the Department of Transportation (DOT) Regulations requires that a trucking company conduct an employment history investigation covering the immediate past three years for each driver it employs.

D.O.T. REGULATION



U.S. Department  
of Transportation  
Federal Highway  
Administration

D.O.T. LETTER

400 Seventh St., S.W.  
Washington, D.C. 20580

MAY 22 1991

Refer to: HCS-10

**§391.23 Investigation and inquires.**

(a) Except as provided in Subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971:

(1) An inquiry into the driver's driving record during the preceding 3 years to the appropriate agency of every State in which the driver held a motor vehicle operator's license or permit during those 3 years; and

(2) An investigation of the driver's employment record during the preceding 3 years.

(b) The inquiry to State agencies required by paragraph (a)(1) of this section must be made within 30 days of the date the driver's employment begins and shall be made in the form and manner those agencies prescribe. A copy of the response by each State agency, showing the driver's driving record or certifying that no driving record exists for that driver, shall be retained in the carrier's files as part of the driver's qualification file.

(c) The investigation of the driver's employment record required by paragraph (a)(2) of this section must be made within 30 days of the date his employment begins. The investigation may consist of personal interviews, telephone interviews, letters, or any other method of obtaining information that the carrier deems appropriate. Each motor carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted, and his comments with respect to the driver. The record shall be retained in the motor carrier's files as part of the driver's qualification file.

Mr. Kent Ferguson  
Index Specialist  
DAC Services  
4110 S. 100th E. Avenue  
Suite 200  
Tulsa, Oklahoma 74146-3639

Dear Mr. Ferguson:

This is in reference to your May 3 and May 6 telephone conversations with Safety Specialist Star Fugli of our Oregon Division Office concerning past employer computer printouts and whether such printouts satisfy Section 391.23(c) of the Federal Motor Carrier Safety Regulations.

DAC Services, Inc., is a computer information service which provides its members with, among other items, drivers' past employment records. After receiving basic identifying information on a particular driver applicant from the prospective employer, DAC queries its data base and subsequently (instantaneously, in most cases) produces a printout of that driver applicant's past employment record with other DAC motor carrier members. The date and time of the computer printout are shown on the hard copy received by the prospective employer.

Your question is whether such a printout satisfies Section 391.23(c), which requires the prospective employer to investigate the driver applicant's past employment record. This section states, in part, that "the investigation may consist of personal interviews, . . . or any other method of obtaining information that the carrier deems appropriate. Each motor carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted [emphasis added], and his comments with respect to the driver. . . ."

The printouts clearly show the past employer's name and address and comments regarding the driver's employment record. Because the printout shows the date of inquiry to the data base, and because DAC is acting as an agent for the motor carrier, the printout also satisfies the "date of contact" condition required by Section 391.23(c) for each past employment record that is found in the data base and printed on the prospective employer's copy. Please note that for past employers not found in the data base, the prospective employer will still have to conduct its own past employment investigation and prepare the appropriate documentation.

I hope this information is helpful.

Sincerely yours,

James E. Scapellato, Director  
Office of Motor Carrier Standards

FAIR CREDIT REPORTING ACT: The principal statute affecting DAC's program is the Fair Credit Reporting Act ("FCRA") found in 15 U.S.C. 1681 et seq. This federal act sets forth a comprehensive mechanism to regulate the preparation and making of employment reports. DAC's activities are governed by the provisions of the FCRA originally enacted in 1970. DAC's operations are structured to insure compliance with this act.

Public Law 91-508  
Title VI

**THE FAIR CREDIT REPORTING ACT**  
As amended by Public L. No. 95-598, November 6, 1978

*Enacted* October 26, 1970  
*Effective* April 24, 1971

DAC'S REPORTS ARE CONSIDERED "INVESTIGATIVE" CONSUMER REPORTS: First, we have made an assumption that the reports to be issued by DAC will be considered "investigative consumer reports", 168 1a(e), which is the most restrictive category of reports recognized under the FCRA. We believe that the reports are actually "consumer reports," which are treated in a less restrictive way, but we have decided to take the safe road in developing the compliance features of our program. Thus, reports meeting the requirements of an "investigative report" will certainly be safe for a regular "consumer report." The form below is used to report terminations.



TERMINATION RECORD

Credit Value \$1.20

1 1 2 3 4 5  
MEMBER I.D. #

2 SMITH JJ  
INDIVIDUAL'S LAST NAME FIRST NAME INITIAL

3 1 2 3 - 4 5 - 6 7 8 9 | 4 PERIOD OF SERVICE: from 0 3 9 1 to 0 6 9 1 | 5 0 3  
SOCIAL SECURITY # Mo. Yr. Mo. Yr. # OF ACCIDENTS

6 OK 9 8 7 6 5 4 3 2 1  
STATE LICENSE #

STATE LICENSE #

IMPORTANT NOTICE: Refer to "Guide" for full explanation of codes below (Form G051592)

7 Eligible for Rehire (Circle only one)  01 Yes 002 Yes, but against company policy 003 No 004 Review required before rehiring

10 DRIVER'S EXPERIENCE (Circle All That Apply)

303 Local  
 311 Mountain Driving  
 327 Over the Road  
 332 Single Driver  
 333 Driver Trainer  
 351 1st Driver of a Team  
 352 2nd Driver of a Team  
 355 Freight Handling  
 399 Other \_\_\_\_\_

8 REASON FOR LEAVING (Circle Only One)

101 Discharged (or Company Terminated Lease)  
 106 Laid Off (or Lease Suspended)  
 112 Leave of Absence  
 127 Retired  
 133 Resigned/Quit (or Driver Terminated Lease)  
 199 Other \_\_\_\_\_

9 STATUS (Circle All That Apply)

202 Company Driver  
 207 Lease Driver (Employee of Independent Contractor)  
 213 Owner/Operator  
 228 Trip Leaser  
 230 Student/Trainee  
 234 Casual Driver  
 299 Other \_\_\_\_\_

13 WORK RECORD (Circle All That Apply)

901 Satisfactory  
 902 Superior  
 903 Outstanding  
 911 Complaints  
 913 Cargo Loss  
 917 Equipment Loss  
 915 Falsified Employ. Application  
 924 Late Pick Up/Delivery  
 926 Log Violation  
 928 No Show  
 929 Failed To Report Accident  
 931 Quit Under Dispatch  
 933 Quit/Dismissed During Training and/or Orientation  
 957 Unauthorized Equip. Use  
 959 Unauthorized Passenger  
 961 Unauthorized Use of Company Funds  
 935 Company Policy Violation  
 938 Unsatisfactory Safety Record  
 944 Personal Contact Requested  
 999 Other \_\_\_\_\_

QUIT UNDER LOAD/ABANDONMENT (Circle Only One)

950 Co. Terminal - With Notice  
 951 Auth. Location - With Notice  
 952 Co. Terminal - W/O Notice  
 953 Unauth. Location - W/O Notice  
 954 Left Vehicle With Team Driver  
 955 Unauth. Location - With Notice  
 956 Auth. Location - W/O Notice

11 EQUIPMENT OPERATED (Circle All That Apply)

504 Automobile  
 505 Auto Transporter  
 511 Bus  
 516 Double Trailer  
 523 Driveaway/Towaway  
 527 Dry Box  
 529 Dump Truck  
 532 Flat Bed  
 534 Pick Up or Hot Shot  
 540 Refrigerated  
 542 Specialized Trailer  
 544 Specialized Truck/Toter  
 547 Straight Truck  
 552 Tank Truck  
 557 Taxi  
 562 Triple Trailer  
 573 Van  
 581 Winch  
 599 Other \_\_\_\_\_

12 LOADS HAULED (Circle All That Apply)

707 Bulk Commodity  
 712 Container  
 713 Empty Trailer  
 714 Gen. Commodity  
 718 Hanging Meat  
 720 Hazardous Material  
 725 Household Goods  
 729 Livestock  
 730 Lumber  
 731 Machinery  
 733 Mobile Homes  
 735 Motor Vehicles  
 762 Oversized Loads  
 763 Parcels  
 750 Passengers  
 764 Pipe  
 769 Refrigerated  
 773 Steel  
 799 Other \_\_\_\_\_

14 Sam Safety 6-25-91  
Prepared By Date

15 \_\_\_\_\_  
Entered By Date

DAC SERVICES 4110 S. 100TH E. AVE., SUITE 200 TULSA, OK 74146  
 DAC 800 331-9175 (Nationwide) DAC Customer Service 800 322-9651

Form 051592

16 This space for changes only TO CHANGE THIS RECORD

Record Identification Number \_\_\_\_\_  
 Signature approving change \_\_\_\_\_  
 Title \_\_\_\_\_  
 Current date \_\_\_\_\_

**DRIVER RELEASE:** Each prospective driver applicant of a member is required to be notified that DAC will provide the member with such an investigative report, 168 1d. DAC, in its Carrier Membership Agreement, para. 6.1 requires each member to disclose that such a report has been requested from DAC, and DAC has provided a format for such disclosure. In anticipation of any further legislation that may affect DAC's program, the driver release operates as a consent by the driver applicant for the report to be compiled and submitted by the member. DAC recommends the Driver Release below.



**DRIVER NOTIFICATION AND RELEASE**

In connection with my application for employment (including contract for services) with you, I understand that a consumer report which may contain public record information is being requested from DAC Services, Tulsa, Oklahoma. This report may include the following types of information: names and dates of previous employers, reason for termination of employment, work experience, accidents, etc. I further understand that such report may contain public record information concerning my driving record, worker's compensation claims, credit, bankruptcy proceedings, etc. from federal, state and other agencies which maintain such records as well as information from DAC concerning (1) previous driving record requests made by others from such state agencies; (2) state provided driving record; (3) claims involving me in the files of insurance companies.

**I AUTHORIZE, WITHOUT RESERVATION, ANY PARTY OR AGENCY CONTACTED BY DAC TO FURNISH THE ABOVE-MENTIONED INFORMATION.**

I have the right to make a request to DAC, upon proper identification, to request the nature and substance of all information in its files on me at the time of my request; the sources of information; the recipients of any reports on me which DAC has previously furnished within the two year period preceding my request. I hereby consent to your obtaining the above information from DAC, and I agree that such information which DAC has or obtains, and my employment history with you if I am hired, will be supplied by DAC to other companies which subscribe to DAC Services.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security No.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date



**DRIVER PROTECTION:**

Drivers may dispute the accuracy of any information contained within an employment report in person or by mail. DAC will reinvestigate information contained in its files which is disputed by the driver (FCRA, para. 611. Procedure in the case of disputed accuracy).

If, after reinvestigation such information is found to be inaccurate or can no longer be verified, DAC shall promptly delete such information.

If the reinvestigation does not resolve the dispute, employment records provided on the driver henceforth shall contain both the employer's version and the driver's version of the disputed information. The updated report containing both versions is also sent to persons designated by the driver who have, within the previous two years, received a consumer report for employment from DAC on the driver.

DAC ACTS AS CUSTODIAN OF RECORDS: A restriction on investigative consumer reports is that no adverse information may be used in a subsequent report unless such information was received within three months of the current report or the same has been reverified. As required by 1681.1, DAC's program requires the reverification of each members record at the time an employment report is requested. Since the files belong to the member and DAC acts only as the custodian of these files on behalf of its member and each member is responsible for updating its own file, this procedure meets the requirements of 1681.1.

DEFAMATION OF CHARACTER: To establish a defamation of character action under the FCRA; the driver must plead and prove malice or willful intent. Peller v. Retail Credit Company 359F.Supp. 1235 (N.G.GA.) affirmed, 505F.2d 733 (5th Cir. 1973). DAC assumes no member will intentionally furnish false information. The Carrier Membership Agreement requires that all information furnished be truthful and factual. DAC will maintain records concerning inaccuracies in the records of each member. If any member consistently furnishes inaccurate information or refuses to furnish correct information, then that member will be terminated in accordance with paragraph 8.2 of the Carrier Membership Agreement. The FCRA preempts inconsistent state laws in this subject area according to 1681(t). The liabilities of DAC as a consumer reporting agency and its members are satisfactorily limited by the FCRA.

**MEMBER'S LIABILITY DUE TO ERRORS:** Under the FCRA, DAC and the member's liability for inaccurate information is limited by Section 1681h(e) which provides that a consumer may not bring suit based upon defamation, invasion of privacy or negligence against any person furnishing information, DAC or any employer using the employment report except against the individual who furnishes false information with malice or willful intent to injure the driver. Therefore, merely furnishing truthful information, although adverse exposes the member to no liability. The furnishing of inaccurate information is addressed by the corrective reports set forth in the FCRA and described in the section titled DRIVER PROTECTION. The Carrier Membership Agreement is drafted to comply with the FCRA, and so long as a member furnished honest data, uses the information for no reason other than employment or insurance purposes, then members should have no concern about liability for either furnishing or using information contained in DAC's employment reports. The employment report has the same status as a credit report and credit reports, with adverse information included, are issued by the millions without subjecting the users or the credit bureau to liability.

**INVASION OF PRIVACY:** Does DAC's program invade a driver's right to privacy? The DOT regulations of this industry destroy any expectation of privacy on the part of a professional driver regarding his or her past employment

history. The fact that such disclosures may intrude into his life does not bar the Government's right to require disclosure of the information. Roe v. Ingraham 364F.Supp. 536(S.D.N.Y. 1973). The manner in which such information is compiled would have no bearing on the justification or the immunity of the report. Further, the information sought by DAC and released to its members relates directly to job performance. The information does not relate to the applicant's personal life in any way, and does not invade any area of his or her private life.

Further, each driver must sign the Driver Release as set forth in paragraph 5.1 of the Carrier Membership Agreement consenting to the release of information in DAC's computers. Under such circumstances the applicant could not claim any right to privacy in regard to his or her past employment history.

**CONCLUSION:** DAC's program is fair to the drivers and in compliance with the federal statutes that govern the sharing of employment history information between DAC members.