



February 10, 2021

Mr. Richard Clemente
Office of Driver and Carrier Operations
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC
20590-0001

Re: Docket No. FMCSA-2018-0224; Record of Violations

Dear Mr. Clemente,

Driver iQ respectfully submits these comments in response to FMCSA's notice of proposed rulemaking (NPRM) titled "Record of Violations" (ROV). As a company devoted to helping trucking companies improve their driver screening, hiring and safety practices, along with improving their regulatory compliance, Driver iQ is very interested in changes to the Federal Motor Carriers Safety Regulations (FMCSRs) that affect background screening requirements.

We appreciate FMCSA's efforts to reduce the regulatory burdens on trucking businesses, and our carrier customer appreciate the burdens that have already been reduced or eliminated. Driver iQ also appreciates FMCSA's ongoing initiative to identify and eliminate unnecessary regulations that do not improve the safety performance of drivers or the trucking industry. For this reason, Driver iQ supports the removal of § 391.27.

Implemented decades ago with the goal of ensuring regulatory compliance and improving the safety and accountability of commercial drivers, § 391.27 has outlived its usefulness. Unfortunately, it has become an unnecessary, redundant and a wasteful paper chase for our customers. As the agency communicated in its NPRM, the current ROV requirement in § 391.27 is duplicative of the annual inquiry requirements in § 391.25(a), which is why Driver iQ supports the NPRM. If finalized, this change will maintain safety, save drivers time, and save our carrier customers the unnecessary time and costs related to obtaining both an ROV and an MVR.

Driver iQ also supports the proposed requirement for carriers to obtain foreign drivers MVRs from Canadian and Mexican driver licensing authorities. This proposed addition is appropriate since many of our affected customers already attempt to obtain these documents during the driver screening and hiring process. Based on our experience on this issue, this revision is consistent with the industry's safety practice and, as a result, should not add a new burden or expense.

It should be noted however, that obtaining MVRs from foreign authorities is often a time consuming and cumbersome process for carriers to obtain these reports. Currently, carriers must go directly to the respective foreign authority to request and receive this record. Often, it can take 90-120 days to obtain the requested report, and there are times no report is ever received by the carrier. Should this proposal become a new requirement, FMCSA should consider a lengthy effective date (far longer than the normal 30 or 60 days) in order for proper motor vehicle record systems to be developed. Additionally, FMCSA should consider language requiring a carrier to maintain documentation of each report request. In the event no report is received, this documentation would allow a carrier to demonstrate their good faith effort to obtain it. This approach would be consistent with the agency's longstanding rule and guidance concerning previous employer inquiries. Finally, the regulation should also include language covering the

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requirement of the foreign authority to provide access to the reports by an appointed agent of the carrier i.e. a consumer reporting agency.

We also recommend a change to the proposed answer to guidance Question 1 of 391.25. Driver iQ specifically recommends this guidance be revised to make clear that the ROV is not part of “information about the driver’s experience” that is “reasonably available.” This change would be consistent with the spirit and letter of the NPRM, and it would clarify what information is reasonably available to a motor carrier going forward.

Although not included in the NPRM, we wanted to take this opportunity to urge FMCSA to renew its focus on the development and use of State-based Employer Notification Services (ENS systems). The benefits of proactive ENS systems are clear, but ENS implementation at the State level has been lackluster at best. According to FMCSA’s 2018 ENS Best Practices & Recommendations document (link below), there are only 18 States that have an ENS system consistent with FMCSA’s standards and guidelines. That’s unfortunate since ENS systems are great safety tools. We urge FMCSA to focus on broadening its guidance to promote and allow ENS systems from additional states. The current status of ENS systems in the U.S represents a missed opportunity for FMCSA to improve trucking and driver safety. For this reason, Driver iQ recommends FMCSA place a sincere and renewed focus on ENS implementation work.

Thanks again for the opportunity to comment on these important issues that affect our trucking customers.

Sincerely,

A handwritten signature in black ink that reads 'Todd Hensley'.

Todd Hensley
Driver iQ President

ENS Link - <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/registration/commercial-drivers-license/415871/employer-notification-services-best-practices-and-recommendations-august-2018.pdf>

