



# Commercial Driver's License Drug & Alcohol Clearinghouse Frequently Asked Questions



U.S. Department of Transportation

**Federal Motor Carrier Safety Administration**



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### 1. What is the Drug and Alcohol Clearinghouse (Clearinghouse)?

The Clearinghouse will be an electronic database containing records of violations of drug and alcohol prohibitions in subpart B of [part 382](#). Such violations will include positive drug or alcohol test results, refusals, and other drug and alcohol violations for drivers required to have a commercial driver's license (CDL). When a driver completes the return-to-duty process, this information will also be recorded in the Clearinghouse.

### 2. Will violations that occur before the Clearinghouse rule is implemented be included in the Clearinghouse?

No. The Clearinghouse will contain only violations that occurred on or after the rule's implementation date of January 4, 2020.

### 3. Does the final rule change any of the existing drug and alcohol program requirements in part 40?

No, this rule does not change any existing requirements in part 40, the DOT-wide procedures for workplace drug and alcohol testing.

### 4. Are the employers of non-CDL drivers who operate CMVs subject to the Clearinghouse query or reporting requirements for these drivers?

No. Only employers who employ drivers subject to the licensing requirements in [part 383](#) and the drug and alcohol testing requirements in [part 382](#) will be permitted to query or report information to the Clearinghouse. However, employers of non-CDL drivers must still comply with the driver investigation requirements of [§ 391.23\(e\)](#), which includes drug and alcohol violation history.

### 5. Who will have access to the driver's information in the Clearinghouse?

- Employers will be required to query the system through an online search of the Clearinghouse for violations that would prohibit the driver or prospective driver from performing safety-sensitive functions, such as driving a CMV.
- State driver licensing agencies will be required to query the Clearinghouse when a State-licensed driver obtains, renews, upgrades, or transfers his or her CDL.
- The National Transportation Safety Board (NTSB) will be able to access Clearinghouse information for drivers involved in any crash under investigation by the NTSB.

### 6. How will FMCSA protect a driver's personal information?

FMCSA takes the protection of personal information very seriously. The Clearinghouse will meet Federal Security Standards and FMCSA will verify the effectiveness of the security protections on a regular basis. Only full queries, which require verified driver consent, will result in the release of records to prospective or current employers (§ 382.703).

### 7. Can a driver correct information in the Clearinghouse?

Yes. The Clearinghouse provides an administrative process for drivers to request corrections on their Clearinghouse record (§ 382.717). Drivers may challenge only the accuracy of information reported, not the accuracy or validity of test results or refusals.

## **8. Is the Clearinghouse subject to the Privacy Act requirements?**

Yes. The Clearinghouse is subject to certain provisions of the Privacy Act and the Fair Credit Reporting Act. For example, the Agency will verify the driver's consent to release of information prior to allowing an employer to access the driver's Clearinghouse record. Drivers have the right to request that inaccurate information in their Clearinghouse record be corrected or removed. In addition, FMCSA will notify employers if previously-released Clearinghouse information has been subsequently corrected or removed.

## **9. What happens if an employer submits false information to the Clearinghouse?**

Employers will be required to provide specific documentation to support the reporting of an actual knowledge violation or a refusal based on the driver's failure to appear for a required test (§ 382.705(b) (3) and (4)). The Agency will remove information from the driver's Clearinghouse record that is determined to be false. An employer who knowingly submits false information to the Clearinghouse may be subject to criminal and/or civil penalties.

## **10. May drivers access their own information in the Clearinghouse?**

Yes. Drivers will be able to electronically access their Clearinghouse records or determine the status of information in their record at no cost. Drivers will need to register in the Clearinghouse in order to access their information.

## **11. Who will be able to see driver information in the Clearinghouse?**

Prospective and current employers may access driver information, upon verification of the driver's written (electronic) consent. Drivers will have the ability to electronically access their own information at any time. FMCSA enforcement personnel, State driver licensing agencies, and the National Transportation Safety Board will be able to access driver information in the Clearinghouse for limited purposes.

## **12. How will drivers be notified when information about them is added to the Clearinghouse?**

The Clearinghouse will notify a driver by mail using the address on his or her CDL any time information about the driver is added, revised, or removed. A driver may elect to receive electronic notifications when registering in the Clearinghouse.

## **13. How long will driver violation records be available in the Clearinghouse?**

Driver violation records will be available in the Clearinghouse to authorized employers for 5 years from the date of the violation determination, or until the driver completes the return-to-duty process, whichever is later. There are limited exceptions which could result in earlier removal of driver violations from the Clearinghouse, as described in 382.719(c).

## **14. Are Social Security numbers (SSNs) required to enter driver violations?**

No. The driver's CDL number and issuing state will be used to identify a driver in the Clearinghouse.

## **15. Are Canadian and Mexican drivers conducting operations in the United States subject to the Clearinghouse requirements?**

Yes. All Mexican or Canadian employers, employees or service agents currently required to comply with DOT and FMCSA drug and alcohol testing requirements must comply with the Clearinghouse final rule.

## **16. Will any information from the Clearinghouse appear in the National Highway Traffic Safety Administration's National Driver Register?**

No. Information from the Clearinghouse will not be shared with in the National Highway Traffic Safety Administration's [National Driver Register](#).

## **17. How does the Clearinghouse impact motor carrier employers?**

The Clearinghouse regulations require employers to both query and report information regarding CDL-drivers. Once the Clearinghouse is established and operational, employers will be required to report to the Clearinghouse specified violations of the DOT drug and alcohol testing program incurred by their current and prospective CDL drivers. In addition, all employers of CDL drivers must conduct pre-employment queries through electronic requests for information to determine whether prospective hires have unresolved drug or alcohol violations that prohibit them from performing safety-sensitive functions. Employers will also be required to query the Clearinghouse annually to determine whether current employees have incurred drug or alcohol violations while working for another employer.

## **18. What information must employers report to the Clearinghouse?**

Employers must report the following violations to the Clearinghouse:

- An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- A negative return-to-duty test result;
- The driver's refusal to submit to a DOT test for drug or alcohol use;
- An "Actual knowledge" violation, as defined in [§ 382.107](#);
- A report that the driver successfully completed all follow-up tests as ordered by the Substance Abuse Professional.

## **19. How much time does an employer have to submit a report of an employee's drug or alcohol program violation to the Clearinghouse?**

Employers will have to submit a report of a drug or alcohol program violation by the close of the third business day following the date on which the employer obtained the information.

## **20. When must current and prospective employers conduct a query of a driver's information in the Clearinghouse?**

An employer will be required to conduct a query of the Clearinghouse for each currently-employed CDL-driver at least once a year. This annual query may be either full or limited. The annual query is the minimum requirement and employers may conduct queries more often, as long as they obtain the employee's consent.

A prospective employer must conduct a full pre-employment query of the Clearinghouse prior to employing a driver to perform a safety-sensitive function. The difference between full and limited queries is discussed below.

## **21. What is the difference between a full and limited query?**

A full query requires the driver's specific consent to the release of information in the Clearinghouse to a specific individual or organization at a particular point in time.

A limited query allows an employer to determine if any information about an individual driver exists in the Clearinghouse, but does not provide for the release of any specific violation information in the driver's Clearinghouse record. Limited queries require only a general driver consent, but employers may obtain a multi-year general consent from the driver for annual query requirement.

## **22. What if a limited query shows there is information on a driver?**

If the limited query shows that information exists, the employer is required to obtain the driver's specific consent to conduct a full query. The employer must conduct a full query within 24 hours. FMCSA will then verify that the driver consented to the full query before releasing the information to the employer. Absent this consent, the employer may not permit a driver to perform safety-sensitive functions, such as the operation of a CMV.

## **23. How much will it cost to conduct pre-employment and annual queries in the Clearinghouse?**

The Clearinghouse final rule does not address the specific dollar amount that will be charged for employer user fees. The Agency intends to contract with a third-party to operate and maintain the Clearinghouse. User fees will be determined through the competitive bidding process. In its request for proposal, FMCSA will require batch processing of data, subscription fees, and other functionalities intended to minimize the transaction costs of queries.

## **24. May employers authorize service agents to conduct queries of the Clearinghouse on their behalf?**

Yes. Once employers register in the Clearinghouse, they may authorize service agents to conduct queries of the Clearinghouse on their behalf. Employers may also authorize designated service agents to report violations to the Clearinghouse. Service agent authorizations will be required as part of an employer's Clearinghouse registration process. Designated service agents must register before accessing or reporting information to the Clearinghouse.

## **25. What must employers do when an authorized service agent is no longer conducting business for the employer's company?**

Employers must make any changes to their registration information in the Clearinghouse, including any changes concerning the identification and authorization of employees and service agents, within 10 calendar days of the change.

## **26. Once the Clearinghouse is implemented, will prospective employers still need to conduct drug and alcohol three-year background checks with previous employers?**

Employers will be required to query the Clearinghouse and request drug and alcohol-testing histories from previous employers until the Clearinghouse has been in operation for 3 years. After 3 years, employers subject to [part 382](#) will satisfy the drug and alcohol background check requirement by querying the Clearinghouse. However, motor carrier employers are still subject to all other background requirements of [section 391.23](#) (e.g., motor vehicle record, safety performance history). In addition, if a prospective employee was subject to drug and alcohol testing by a DOT mode other than FMCSA, employers must continue to request background information from those DOT-regulated employers, since that information will not be reported to the Clearinghouse.

## **27. Will a prospective employee's drug and alcohol violation history with DOT modes other than FMCSA be available in the Clearinghouse?**

No. The Clearinghouse will contain only drug and alcohol program violation information for employees subject to the testing requirements under the Federal Motor Carrier Safety Regulations in [49 CFR part 382](#). Employers must continue to request information from previous employers if the employee was subject to DOT drug and alcohol testing required by a DOT modal administration other than FMCSA (as required by [§ 391.23\(e\)\(4\)\(B\)](#)).

## **28. May employers report the results of non-DOT drug or alcohol tests to the Clearinghouse?**

No. Only results of DOT drug or alcohol tests or refusals may be reported to the Clearinghouse. While employers may conduct drug and alcohol testing that is outside the scope of the DOT testing requirements, positive test results or refusals for such non-DOT testing may not be reported to the Clearinghouse.

## **29. How do owner-operators meet their Clearinghouse obligations?**

An employer who employs himself/herself as a driver is subject to the requirements pertaining to employers as well as those pertaining to drivers. The existing part 382 regulations require that one-person company owner-operators join a random drug and alcohol testing pool with at least one other person ([§ 382.103\(b\)](#)). Under the Clearinghouse final rule, an employer who employs himself/herself as a driver must also designate a consortium/third party administrator (C/TPA) to comply with the employer's Clearinghouse reporting requirements ([§ 382.705\(b\)\(6\)](#)).

## **30. Does an owner-operator have to conduct queries on himself/herself?**

Yes. Anyone who employs a driver must query the Clearinghouse ([§ 382.701](#)). This requirement includes owner-operators, who must comply with all Clearinghouse requirements imposed on both employers and employees.

## **31. If a driver has a drug or alcohol violation in one state and then applies for a CDL in another state, will the Clearinghouse be able to connect that driver's drug and alcohol violation history to the new CDL?**

Yes. The Clearinghouse will identify drivers who move frequently and obtain CDLs in different states and link those CDLs, in order to maintain complete and accurate information on such drivers.

## **32. Will a driver's follow-up testing plan, implemented as part of the return-to duty process, be available in the Clearinghouse?**

Follow-up testing plans will not be included in a driver's Clearinghouse record. When a prospective employee has not completed a follow-up testing plan prescribed by the Substance Abuse Professional, or SAP, the subsequent new employers must continue to obtain the follow-up testing plan from the previous employer, as required in [§ 382.413, and complete the follow-up testing](#).

## **33. What are a medical review officer's (MRO) responsibilities for reporting information to the Clearinghouse?**

Within two business days of making a determination or verification of a DOT-approved drug test, an MRO must report the following driver information to the Clearinghouse:

- Verified positive drug test results; or
- Refusal-to-test determinations based on the employee's inability to provide a sufficient specimen for testing, or the adulteration or substitution of a specimen.

## **34. If an MRO changes a verified drug test result per 49 CFR Part 40, how long does the MRO have to submit the change to the Clearinghouse?**

The MRO must submit a change to the Clearinghouse within one business day of making any change in the reported results.

**35. What donor ID should be documented on the chain of custody form (CCF) and the alcohol testing form (ATF)?**

These forms specifically permit the use of either the social security number or an employee identification number. Under new section 382.705, the driver's CDL number and state of CDL issuance will be used for donor identification when completing the federal CCF or the ATF.

**36. What information is a substance abuse professional (SAP) required to report to the Clearinghouse?**

For each driver who has completed the return-to-duty process in accordance with [49 CFR part 40](#), the SAP must report the following information:

- SAP's contact information;
- Driver's name, date of birth, CDL number and State of issuance;
- Date of initial substance abuse professional assessment; and
- Date the SAP determined the driver demonstrated successful compliance with return-to-duty requirement and was eligible for return-to-duty testing.

