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Regulatory Update: **Drug & Alcohol Clearinghouse**

January 15, 2020

Presented by:

USDOT

Federal Motor Carrier Safety Administration



DRUG & ALCOHOL CLEARINGHOUSE





The Clearinghouse Final Rule

- Mandated by Congress (MAP-21, Section 32402)
- Published December 5, 2016
- Established requirements for the Clearinghouse
- Identified **January 6, 2020** as the Clearinghouse implementation date



Read the Clearinghouse final rule at:

www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse



Who will be required to use the Clearinghouse?

- Drivers who hold commercial driver's licenses (CDLs) or commercial learner's permits (CLPs)
- Employers of CDL drivers who operate commercial motor vehicles (CMVs)
- Consortia/Third-Party Administrations (C/TPAs)
- Medical Review Officers (MROs)
- Substance Abuse Professionals (SAPs)
- State Drivers Licensing Agencies (SDLAs)



Federal Motor Carrier Safety Regulations

49 CFR 382.701 to 382.727



382.701 Drug and Alcohol Clearinghouse

- Pre-employment query required
 - Employers must not employ a driver subject to controlled substances and alcohol testing under this part to perform a safety-sensitive function without **first** conducting a pre-employment query of the Clearinghouse.
 - The employer must conduct a **full query** under this section.
- Annual query required
 - Employers must conduct a query of the Clearinghouse at least once a year for information for **all employees** subject to controlled substance and alcohol testing under this part to determine whether information exists in the Clearinghouse about those employees.
 - Can be a Full Query or Limited Query
 - If the Limited Query shows that information exists in the Clearinghouse, a Full Query must be conducted.





382.701 Drug and Alcohol Clearinghouse

- Recordkeeping
 - Employers must retain for 3 years a record of each query and all information received in response to each query made under this section.
 - As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.





382.703 Driver Consent

- No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent.
 - For **Full** Query, an electronic consent must be given (driver registration in Clearinghouse required).
 - For **Limited** Query, written consent must be given (driver registration in Clearinghouse not required).
 - A sample limited query consent form is available at the following website:
<https://clearinghouse.fmcsa.dot.gov/Resource/Index/Sample-Limited-Consent-Form>
- The employer conducting the search must retain the consent for 3 years from the date of the last query.





382.703 Driver Consent

- Before the employer may access information contained in the driver's Clearinghouse record, the driver **must submit electronic consent** through the Clearinghouse granting the employer access to the following specific records:
 - A verified positive, adulterated, or substituted controlled substances test result;
 - An alcohol confirmation test with a concentration of 0.04 or higher;
 - A refusal to submit to a test in violation of § 382.211;
 - An employer's report of actual knowledge, as defined at § 382.107, of:
 - On duty alcohol use pursuant to § 382.205;
 - (Pre-duty alcohol use pursuant to § 382.207;
 - Alcohol use following an accident pursuant to § 382.209; and
 - Controlled substance use pursuant to § 382.213;
 - A SAP report of the successful completion of the return-to-duty process;
 - A negative return-to-duty test; and
 - An employer's report of completion of follow-up testing.





382.703 Driver Consent

- No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent.
- A driver granting consent under this section must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer.
- A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with 382.701(c).



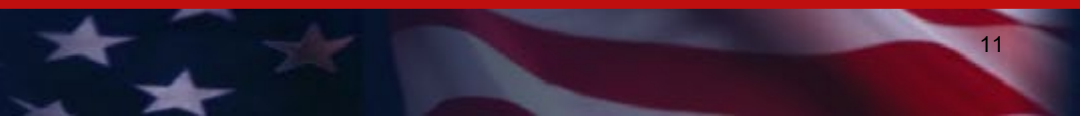


382.705 Reporting to the Clearinghouse

MROs - Positive Tests, Refusals.

Employers

- Employers must report the following information about a driver to the Clearinghouse **by the close of the third business day** following the date on which they obtained that information:
 - An alcohol confirmation test result with an alcohol concentration of 0.04 or greater.
 - **A negative return-to-duty test result.**
 - A refusal to take an alcohol test.
 - A refusal to test determination made in accordance with 49 CFR 40.191
 - **A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report** in accordance with §§ 40.307, 40.309, and 40.311 of this title.





382.709 Drivers' access to information in the Clearinghouse

- A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.





382.711 Clearinghouse Registration

Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

- Info to help with registration are located on the website learning center <https://clearinghouse.fmcsa.dot.gov/Learn>.
- The registration help can be found on the bottom of the main page. There is help for employers and drivers as well as SAPs, MROs, and C/TPAs. There are screenshots and instructions on how to complete the registration process.





382.721 Fees

- FMCSA may collect a reasonable fee from entities required to query the Clearinghouse.
 - Exception: **Driver** is not required to pay a fee to access his or her own information in the Clearinghouse.





FEES

UNLIMITED QUERY PLAN

\$24,500

One annual payment

✓ Expires 12 months after date of purchase*

** Note: Unlimited query plans purchased prior to January 6, 2020 will go into effect on January 6, and will expire on January 5, 2021.*

INDIVIDUAL QUERY PLAN

\$1.25

Flat per query rate (limited or full)

- ✓ Flat per query rate (\$1.25), for limited and full queries
- ✓ Bundles customized to meet your business needs
- ✓ Queries never expire
- ✓ Purchase additional query plans, as needed

Query Bundle	Plan Cost
1	\$1.25
2	\$2.50
3	\$3.75
4	\$5.00
5	\$6.25
10	\$12.50
20	\$25.00
50	\$62.50
100	\$125.00
150	\$187.50
200	\$250.00
300	\$375.00
500	\$625.00
1,000	\$1,250.00
1,500	\$1,875.00
2,000	\$2,500.00
2,500	\$3,125.00
5,000	\$6,250.00
7,500	\$9,375.00

Recommended for High-volume users





382.723 Unauthorized access or use prohibited

- Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse.
- No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law.
- No person may report inaccurate or misleading information to the Clearinghouse.
- An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.
 - No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.
- Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.





382.727 Penalties

- An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).





Registration

Create a Login.gov Account

- Accessing the Clearinghouse requires the creation of an account with login.gov, a shared service that offers secure online access to participating government systems.

The screenshot shows the FMCSA Drug & Alcohol Clearinghouse registration page. At the top, the FMCSA logo and 'Federal Motor Carrier Safety Administration' are visible. Navigation links for 'Register' and 'Login' are in the top right. Below the header, there are icons for 'FAQ', 'About', and 'Contact'. The main content area features a large heading: 'Register for the Clearinghouse now and be ready for implementation'. Below this is a diagram showing a person, a shield with a red 'i', and a document. Text explains that authorized users must register to request access. A red box highlights a blue button labeled 'Go to login.gov'. Below this, a section titled 'Why register now?' includes three columns: 'DRIVERS' (steering wheel icon), 'EMPLOYERS' (truck icon), and 'SAPS & MROS' (organizational chart icon). Each column contains specific instructions for that user group.

FMCSA
Federal Motor Carrier Safety Administration

DRUG & ALCOHOL CLEARINGHOUSE

Register Login

FAQ About Contact

Register for the Clearinghouse now and be ready for implementation

Authorized users must register to request access to information in the Clearinghouse. You will need to sign in with a login.gov account to begin your Clearinghouse registration.

Need a login.gov account? Click the link below to create your login.gov account.

Already have a login.gov account? Click the link below and sign in to your account.

[Go to login.gov](#)

Why register now?

Don't wait! Registering now lets you complete the steps below so that you can be ready when the Clearinghouse is operational on January 6, 2020.

DRIVERS

Enter your CDL information and confirm all information is accurate in our database.

EMPLOYERS

Does a C/TPA manage your drug and alcohol testing program? Designate them today. Have an FMCSA Portal account? Link it with your Clearinghouse account.

SAPS & MROS

Invite Assistants from your company and get set up so you can record information as soon as the Clearinghouse is operational.

GOVERNMENT PERSONNEL

FMCSA enforcement personnel and State Driver Licensing Agencies should not complete Clearinghouse registration. Log in using your FMCSA Portal credentials.





Registration

- Login.gov requires the completion of a user verification process
- Authentication via phone (voice or text message), authentication application, or security key

STEP 3 OF 4

First authentication method setup (1 of 2)

Add a second layer of security so only you can sign in to your account.

You'll only use one authentication method to sign in, but we ask you to set up two. This makes sure you can still sign in if you lose access to one.

Select an option to secure your account:

- Phone**
Get your security code via text message (SMS) or phone call
- Authentication application**
Set up an authentication application to get your security code without providing a phone number
- Security key**
Use a security key to secure your account
- Government employees**
Use your PW/CAC card to secure your account
- I don't have any of the above**
You can use backup codes as your only authentication method. We'll give you 10 codes that you'll have to keep in a safe place.

[Continue](#)

[Cancel account creation](#)



STEP 3 OF 4

Send your security code via text message (SMS) or phone call

We'll send you a security code **each time you sign in**.

Message and data rates may apply.

Phone number

example: (201) 555-0123

How should we send you a code?

You can change this selection the next time you sign in. If you entered a landline, please select "Phone call" below.

 Text message (SMS) Phone call

[Send code](#)

[Choose another option](#)





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FMCSA
Federal Motor Carrier Safety Administration

Register Login

DRUG & ALCOHOL CLEARINGHOUSE
FAQ About Contact

Thank you! You are now logged into your login.gov account.
Follow the steps below to complete your Clearinghouse registration.

1 LOGIN.GOV 2 ROLE SELECTION 3 CONTACT INFORMATION 4 QUALIFICATIONS 5 TERMS & CONDITIONS

2. Select Your Role

Use the menu below to select the type of user account you will need in the Clearinghouse.

- Employer
- Driver
- Consortium/Third Party Administrator (CTPA)
- Medical Review Officer (MRO)
- Substance Abuse Professional (SAP)

To complete your Clearinghouse registration you will need:

- Your MRO license information
- Confirmation of required training and examination, and basic knowledge as defined in § 40.121

Can you certify your MRO qualifications?
MROs who use this registration process will be required to self-certify their qualifications and confirm their credentials and basic knowledge, as required by § 40.121.

MROs can also invite users who will serve in an Assistant role. Assistants will enter violation information in the Clearinghouse on the MRO's behalf. MRO Assistants should not follow this registration process, but should wait to receive an email invitation from the MRO they will work under.

Are you a credentialed MRO?
 Yes, I am a credentialed MRO.

Next Cancel

- After setting up a login.gov account, registration will be completed in the Clearinghouse.
- Employers will be asked about their Portal credentials
- Owner/Operators will be asked to identify their C/TPA.
- Drivers will enter their CDL information
- MROs and SAPs will need to certify they meet the Part 40 requirements





User Dashboard

- Homepage for role based Clearinghouse activity including
 - Invite and manage assistants
 - Manage C/TPAs
 - Purchase query plans (November)
 - Report drug and alcohol program violations (January)
 - Conduct queries (January)

The screenshot shows the user dashboard for Andrew, a Sample MRO (MRO Admin). The page is titled "DRUG & ALCOHOL CLEARINGHOUSE" and includes a navigation menu with "My Dashboard", "FAQ", "About", and "Contact". A "WELCOME ANDREW" message informs the user that the Clearinghouse will be operational on January 6, 2020, and provides a link to download the "Clearinghouse for MROs" brochure. Three main action cards are visible: "Invite an Assistant" (with a sub-header "Will other employees report violations in the Clearinghouse on your behalf?"), "Learn More" (with a sub-header "Browse or search the Clearinghouse FAQs"), and "Edit Profile" (with a sub-header "Make updates to the details you entered during your Clearinghouse registration"). A "Download the Clearinghouse Brochure for MROs" section is also present, featuring a "Download" button and a sub-header "Want to learn more about how you will use the Clearinghouse beginning January 6, 2020?". A "Coming Soon" section for "JANUARY 6, 2020 Clearinghouse Fully Operational" is also visible, with a sub-header "Report verified positive, adulterated, or substituted controlled substances test results and refusal-to-test determinations".





Clearinghouse Assistants

All Assistants **must** be invited to register in the Clearinghouse

- **C/TPA Assistant** enters violation information and queries the Clearinghouse on behalf of the authorized C/TPA; may support multiple C/TPAs
- **MRO Assistant** enters violation information into the Clearinghouse on behalf of the authorized MRO; may support multiple MROs
- **SAP Assistant** enters RTD information into the Clearinghouse on behalf of the authorized SAP; may support multiple SAPs





Drivers

Drivers will complete the following actions in the Clearinghouse:

1. **REGISTER**
2. **VIEW** their information
3. **PROVIDE** or refuse specific electronic consent to an employer for a full query (includes pre-employment queries)
4. **IDENTIFY** a SAP before the SAP can enter return-to-duty (RTD) information about them



Drivers may:

1. Submit a petition to correct inaccurately reported information as established in the Clearinghouse final rule and per 49 CFR Part 10
2. Request the removal from the Clearinghouse of an employer's report of actual knowledge of a driver's traffic citation for operating a CMV under the influence of drugs or alcohol if the citation did not result in a conviction
3. Request that other reports of actual knowledge violations, as well as "failure to appear" test refusals, be removed from the Clearinghouse if they were not reported in accordance with §382.705(b)(5)







Queries

	Reason for Query	Information Returned	Required Action
LIMITED QUERY 	Annual check on currently-employed driver	No records found in the Clearinghouse for queried driver	No action required
	Ad hoc/periodic check on driver	Records found in the Clearinghouse for queried driver	Full query must be conducted for violation and/or RTD details to be released; if full query is not conducted within 24 hours, driver is removed from safety-sensitive functions, including operating a CMV
FULL QUERY 	Pre-employment check on prospective driver	Full violation and/or RTD details for queried driver	If driver has a violation and no negative RTD test result, driver is removed from safety-sensitive functions
	Limited query returned records found for queried driver		If driver has a violation and a negative RTD test result, no action required
	Ad hoc/periodic check on driver		





Consent Requests


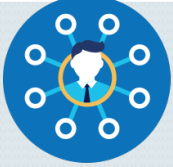
	When is driver consent required?	How is consent provided?	For how long is consent effective?	What action is required?
<p>LIMITED QUERY</p> 	<p>Annual check on currently-employed driver</p> <p>Ad hoc/periodic check on driver</p>	<p>Outside the Clearinghouse</p> <p>May be electronic or wet signature</p> <p><i>Note: FMCSA has provided a sample limited consent request form on the website</i></p>	<p>Limited consent form must specify time range</p>	<p>Consent refused</p> <ul style="list-style-type: none"> Query cannot be conducted Driver removed from safety-sensitive functions <p>Consent provided</p> <ul style="list-style-type: none"> Retain via paper or electronically in driver's qualification file Request limited query in the Clearinghouse
<p>FULL QUERY</p> 	<p>Pre-employment check on prospective driver</p> <p>Limited query returned information exists for queried driver</p> <p>Ad hoc/ periodic check on driver</p>	<p>Electronically within the Clearinghouse</p>	<p>For each full query for individual driver</p>	<p>Consent refused</p> <ul style="list-style-type: none"> Employer notified of refused consent Query cannot be conducted Driver cannot perform/removed from safety-sensitive functions <p>Consent provided</p> <ul style="list-style-type: none"> Query conducted Violation details released, including RTD status If queried driver has violation and no negative RTD test result, driver removed from safety-sensitive functions





Reporting to the Clearinghouse

What information is the employer or designated C/TPA required to report?

	INFORMATION TO BE REPORTED TO CLEARINGHOUSE	DEADLINE FOR REPORTING INFORMATION
  <p>Prospective/Current Employer of CDL Driver</p> <p>Or</p> <p>Service agent acting on behalf of Current Employer of CDL Driver</p>	An alcohol confirmation test with a concentration of 0.04% or higher.	By the close of the 3 rd business day
	Refusal to test (alcohol) as specified in 49 CFR 40.261 .	
	Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 .	
	Actual knowledge, as defined in 49 CFR 382.107 , that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.	
	Negative RTD test results (drug and alcohol testing, as applicable)	
	Completion of follow-up testing.	



Register Now

- Register your company and/or yourself
- Designate C/TPA (employers, if applicable)
- Set up Assistants (employers, C/TPAs, SAPs, MROs)
- Encourage drivers to register





For more information

Visit <https://clearinghouse.fmcsa.dot.gov>

- Subscribe for email updates
- Read frequently asked questions
- Download the Clearinghouse factsheet
- Download the User Role card
- Download User Brochures

Contact clearinghouse@dot.gov





FOR ADDITIONAL INFORMATION CONTACT:

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Bismarck, ND

(701) 250-4346

www.fmcsa.dot.gov

