

# The Guide to the **FMCSA Drug and Alcohol Clearinghouse**

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Provided by North Risk Partners



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## Introduction

The Federal Motor Carrier Safety Administration (FMCSA) and the businesses it governs have a responsibility to ensure the safety of those on the road. Above all, in order to prevent crashes and fatalities on public highways, the FMCSA expects motor carriers to hire qualified drivers who respect applicable commercial motor vehicle (CMV) legislation and proper operating procedures.

As part of this commitment to safety, the FMCSA focuses heavily on the misuse of drugs and alcohol—a major contributor to highway crashes and deaths. According to the most recent data from the FMCSA, positive drug tests for drivers of large trucks involved in fatal crashes increased 48% from 2015 to 2017.

To help address concerns related to impaired driving and protect both commercial driver's license (CDL) holders and the individuals with whom they share the road, the FMCSA established the CDL Drug and Alcohol Clearinghouse.

### What Is the Commercial Driver's License Drug and Alcohol Clearinghouse?

On Dec. 5, 2016, the FMCSA issued a [final rule](#) that established a National Drug and Alcohol Clearinghouse. The Clearinghouse is a secure online database that gives employers, the FMCSA, state driver licensing agencies and law enforcement personnel real-time access to important information about a CDL holder's drug and alcohol program violations.

Effective Jan. 6, 2020, motor carriers must use the Clearinghouse to check a current employee's status at least once per year, review violations and ensure drivers are eligible to operate a CMV.\* While the Clearinghouse does not alter existing drug and alcohol testing requirements, it will likely have a significant impact on internal processes and the way motor carriers onboard new drivers. In addition, there are very specific steps motor carriers need to follow in order to comply with the final rule, meet reporting requirements, avoid violating privacy laws and protect themselves from substantial penalties.

This guide is designed to help motor carriers of all sizes better understand their Clearinghouse compliance burden. It includes specifics about the Clearinghouse process and ways employers can meet the legal standards set by the FMCSA.

**\*Note:** The FMCSA has extended the compliance date for state licensing authorities. With the extension, states must query the Clearinghouse before completing certain commercial driver's license transactions by Jan. 6 2023 (original compliance deadline was Jan. 6, 2020). This proposed delay will give the FMCSA more time to clarify rules related to the way state driver licensing agencies access and use driver-specific information found in the Clearinghouse. The original Jan. 6, 2020 compliance date will remain in place for all other requirements spelled out in the Clearinghouse rule.

## Overview and Applicability of the Clearinghouse

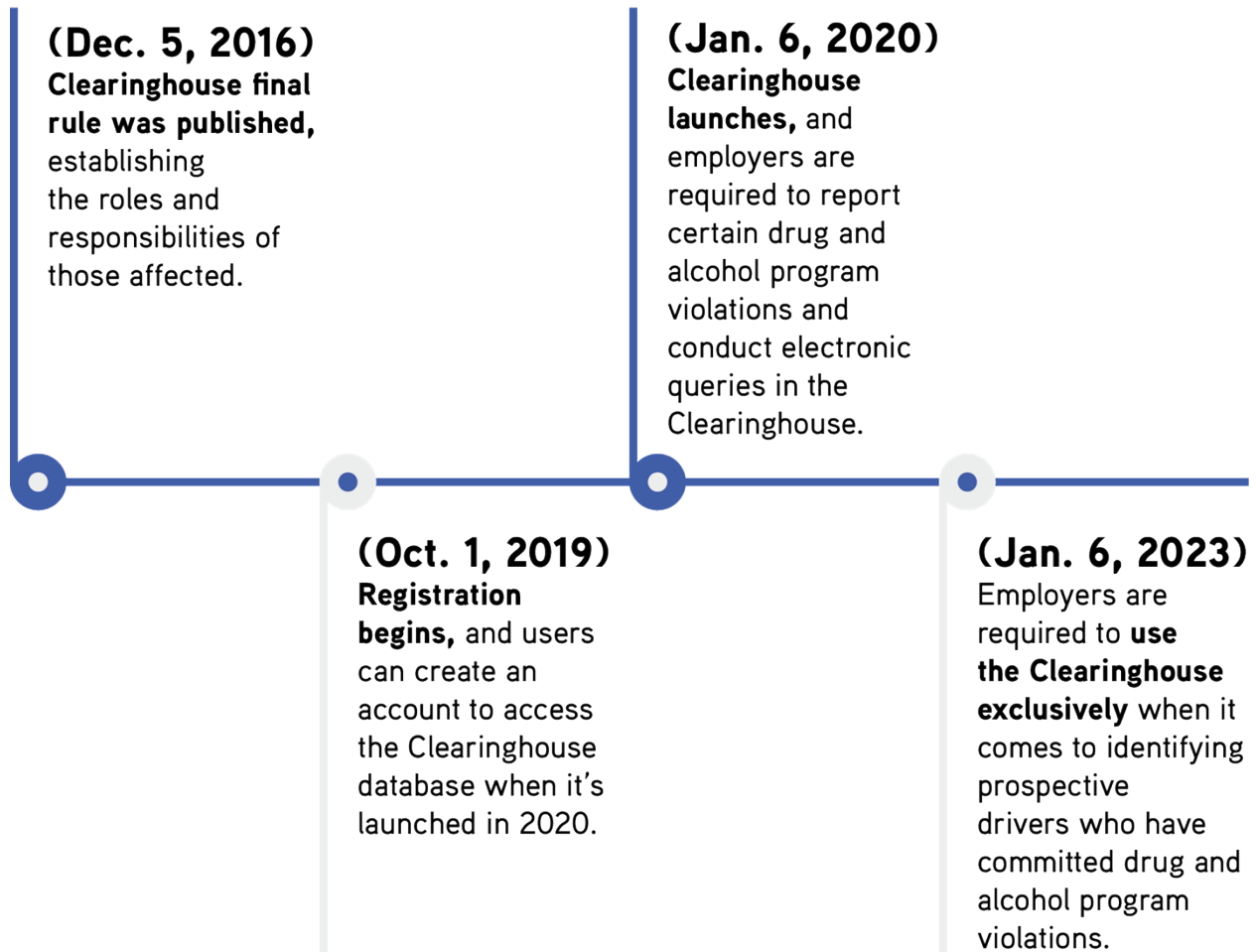
Again, the Clearinghouse is an online database established by the FMCSA. It gives key stakeholders—motor carriers, CDL drivers, medical review officers, substance abuse professionals (SAPs), consortium/third-party administrators (sometimes referred to as service agents) and state driver licensing agencies—the ability to search a CDL holder’s drug and alcohol violations. This, in turn, helps carriers and other parties identify drivers who are prohibited from operating CMVs due to drug and alcohol violations and refusals to test.

### Major Benefits of the Clearinghouse

- Centralizes the testing process for CDL holders who operate CMVs.
- Assists the FMCSA in determining employer compliance with testing, investigation and reporting requirements.
- Helps employers and other parties identify ineligible drivers by allowing stakeholders to see if CMV drivers of interest have violated federal drug and alcohol testing program requirements.
- Ensures that drivers who commit drug and alcohol program violations complete the necessary steps before getting back on the road or performing any other safety-sensitive function.

Under the final rule, motor carriers and other employers of CMV drivers must use the Clearinghouse to ensure that current and prospective employees do not have any unresolved drug and alcohol violations that affect their driving eligibility. Employers will also be required to report information about positive drug test results, alcohol test results greater than a 0.04 blood alcohol content, refusals to test and other non-test violations of FMCSA’s drug and alcohol regulations.

Stakeholders must [register](#) in order to access the Clearinghouse database. The timeline below outlines other key dates:



## Registering for the Clearinghouse

Again, employers, drivers, medical review officers, SAPs and service agents must register in order to access the Clearinghouse information. To register, stakeholders will need a login.gov account.

Use the applicable links below to complete the registration process:

- If you have a login.gov account and want to begin the registration process, click [here](#).
- If you don't have a login.gov account and wish to create one, click [here](#).

## Information Contained Within the Clearinghouse Database

The Clearinghouse contains information about those covered by the FMCSA's drug and alcohol program. In general, the program applies to all drivers who operate CMVs subject to the CDL requirements and perform safety-sensitive functions. As such, the Clearinghouse affects the majority of full-time, part-

time, intermittent, backup and international drivers. It also contains information on drivers with commercial learner's permits (CLPs).

**The FMCSA's definition of safety-sensitive functions is very broad and can include waiting to be dispatched, inspecting or servicing vehicle equipment, driving a commercial vehicle, loading or unloading a commercial vehicle or repairing a commercial vehicle.**

Information contained in the Clearinghouse will relate to violations of [49 CFR Part 382, Subpart B](#) that occur on or after the implementation date of Jan. 6, 2020. These include, but are not limited to, the following types of infractions:

- A driver reports for or remains on duty for a safety-sensitive function with an alcohol concentration of 0.04 or greater or while using any drug specified in [49 CFR part 40](#).
- A driver consumes alcohol while performing (or within four hours of performing) a safety-sensitive function.
- A driver consumes alcohol within eight hours of an accident or post-accident test.
- A driver tests positive for a controlled substance.
- A driver refuses to submit to a required alcohol or drug test.

In addition, the Clearinghouse will record when a driver completes the return-to-duty (RTD) process and follow-up testing.

### General Overview of the RTD Process

- The employer provides the individual with a list of SAPs free of charge. This list must be provided even if carriers don't keep the individual on as an employee. It should be noted that carriers can't force drivers to get an evaluation from an SAP.
- The driver seeks a face-to-face evaluation from an SAP.
- The SAP refers the driver to a treatment and education program.
- The driver completes the required treatment and education program and returns to the SAP for another face-to-face evaluation.
- If satisfied that the driver is able to return to driving, the SAP reports findings to the designated employer representative. This report will list any continuing treatment and education that may be required. It will also detail the number of DOT follow-up drug or alcohol tests required in a given period.
- The driver goes for an RTD drug and alcohol test. The employer must wait for the go-ahead from the SAP before sending the driver in for the RTD test. Upon completion of the process, employers must enter the following into the Clearinghouse:
  - o The negative RTD test result(s); and
  - o The date the driver's follow-up testing plan has been successfully completed.

Violation data found within the Clearinghouse will be denoted by a driver's CDL number and date of birth. Moreover, the Clearinghouse is designed to interface with the Commercial Driver's License Information System (CDLIS). This makes the system more difficult to cheat and allows stakeholders to track a driver's drug and alcohol violations even if the driver changes jobs or applies for a CDL in a different state.

Records of violations remain in the Clearinghouse until:

- 1 The driver completes an SAP evaluation and the recommended education or treatment process;
- 2 The driver receives a negative RTD test;
- 3 The driver successfully completes any and all follow-up tests; and
- 4 Five years have passed from the day the violation was submitted.

### How the Clearinghouse Will Be Used

Depending on the stakeholder, the Clearinghouse will be utilized in various ways, as summarized below:

- **Employers**—Employers will use the Clearinghouse to report drug and alcohol violations and to ensure that current and prospective employees are permitted to perform safety-sensitive functions. If a CDL holder has a drug and alcohol program violation, employers will need to confirm the driver has successfully completed the RTD process. From an employer perspective, the basic Clearinghouse process is as follows:
  - The employer makes an electronic request for information.
  - The driver is notified and their consent is requested.
  - The FMCSA receives electronic consent from the driver.
  - If records exist, they are released to the employer, who will then use the records to determine the driver's fitness for duty.
- **CDL holders**—Using the Clearinghouse, drivers can review violation records to confirm their accuracy. In addition, drivers can use the Clearinghouse to provide consent to current or

prospective employers to access details about any drug and alcohol program violations. Drivers can also use the Clearinghouse to select a SAP, as needed.

- **Medical review officers**—In general, medical review officers will use the Clearinghouse to report verified positive drug test results, along with any refusals to test.
- **SAPs**—SAPs will use the Clearinghouse to report information regarding the RTD process, including initial assessment details and a driver’s eligibility status.
- **Consortium and other third-party administrators**—These entities will access the Clearinghouse on behalf of an employer to report drug and alcohol program violations and perform driver queries as required.
- **State driver licensing agencies**—These entities will query the Clearinghouse when finalizing licensing transactions.

While the Clearinghouse will benefit stakeholders in different ways, its overarching goal is the same—improve roadway safety by identifying CMV drivers who have committed drug and alcohol violations that render them ineligible to operate a CMV. While the goal of the Clearinghouse and its basic functionality is relatively straightforward, there are a number of complex compliance steps employers need to consider.

## Compliance Considerations: Employers

The Clearinghouse will offer employers a centralized location to query driver information and report drug and alcohol program violations incurred by current and prospective employees who hold CDLs or CLPs. These employers must use the Clearinghouse to:

- Conduct a full query—an electronic check-in to the Clearinghouse—as part of each pre-employment driver investigation process.
- Conduct limited queries at least annually for every driver they employ.
- Request electronic consent from each driver for a full query, including every pre-employment query.
- Report drug and alcohol program violations.
- Record negative RTD test results and the date of successful completion of a follow-up testing plan for any driver they employ with unresolved drug and alcohol program violations.

Any employer, employee or service agent that does not comply with its responsibilities under the new rule may be subject to civil or criminal penalties. Following an issue of noncompliance, employers, employees or service agents may receive a notice of claim or violation and have an opportunity to contest any charges. The type and severity of the penalty will likely depend on the circumstances surrounding the violation.

The following sections will examine the query process, reporting obligations and record-retention requirements in more detail.

### Conducting a Query

A query is an electronic check in the Clearinghouse conducted by an employer or its designated consortium/third-party administrator. This type of query is used to determine whether current or prospective employees are prohibited from performing safety-sensitive functions, such as operating a CMV, due to unresolved drug and alcohol program violations.

Motor carriers must conduct a query of the Clearinghouse within a 365-day period based on a driver's hire date (once a year). This requirement applies for every CDL holder employed. While employers must complete annual queries, they can also opt to conduct additional searches as often as they'd like, provided they obtain an employee's consent and are willing to pay the fee.

Per the FMCSA, annual queries can be full or limited, as further explained below:

# 1

**Full queries**—A full query discloses detailed information regarding a driver's resolved or unresolved drug and alcohol program violations. This type of query requires drivers to use their Clearinghouse accounts to provide consent for the release of their information.

## 2

**Limited queries**—A limited query allows employers to determine whether any information about an individual driver exists in the Clearinghouse. While this type of query satisfies the annual requirement, it does not give motor carriers access to specific violation information in the driver’s Clearinghouse record. Limited queries require only a general driver consent, which can be obtained outside of the Clearinghouse portal. Employers may even be able to secure multiyear consent from a driver for limited queries. If a limited query confirms that a driver has information available in the Clearinghouse, the employer must conduct a full query. This full query will be used to determine whether the driver is eligible to perform safety-sensitive functions.

In addition to the annual queries, employers must conduct a full pre-employment query before hiring any driver for a safety-sensitive position.

The FMCSA will charge a flat fee of \$1.25 for every full and limited query of the Clearinghouse. The FMCSA offers bundle plans, but motor carriers will not receive any discounts unless they purchase an unlimited bundle plan for \$24,500. While the unlimited plan is only good for one year, other bundles do not expire. Please note that consortium/third-party administrators can’t purchase queries on an employer’s behalf.

In general, the query bundle motor carriers purchase will depend on the number of queries they will need to conduct. For more information on queries and pricing, click [here](#).

### Summary of Query Requirements

- Employers must conduct queries:
  - As part of any pre-employment driver investigation.
  - At least annually for every CDL driver currently employed.
- There are two types of queries, full and limited.
- Employers are charged \$1.25 for every full or limited query. The FMCSA offers bundle packages for motor carriers who perform a high volume of searches, including a one-year, unlimited query plan for \$24,500.
- Consortium/third-party administrators can query on an employer’s behalf, but can’t purchase queries for the companies they serve.

### Reporting Requirements

Per the Clearinghouse rules, FMCSA-regulated employers, medical review officers, designated employee representatives, SAPs and consortium/third-party administrators are required to report key information

about CDL and CLP holders to the Clearinghouse. The table below lists reportable violations and summarizes the types of information that employers and SAPs must report about them.

<b>Prospective/Current Employers of CDL Holders OR Service Agents Acting on Behalf of an Employer of a CDL Holder</b>	
Reportable Violations/Information	Types of Information Reported to the Clearinghouse
<ul style="list-style-type: none"> <li>• An alcohol confirmation test result with an alcohol concentration of 0.04 or greater</li> <li>• A negative RTD test result</li> <li>• A refusal to take an alcohol test (<a href="#">49 CFR 40.261</a>)</li> <li>• A refusal to test determination made in accordance with <a href="#">49 CFR 40.191</a> . It should be noted that, in the case of a refusal to test, the employer may report only admissions made to the specimen collector.</li> <li>• A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report.</li> </ul> <p><b>Clearinghouse Legal Standard:</b> <a href="#">382.705(b)(1)</a> and <a href="#">382.705(b)(2)</a></p>	<p>Employers must report the following information to the Clearinghouse no later than <b>three business days</b> after the reportable information was obtained:</p> <ul style="list-style-type: none"> <li>• Reason for the test</li> <li>• Driver’s name, date of birth, CDL number and state of issuance</li> <li>• Employer name, address and USDOT number</li> <li>• Date of the test</li> <li>• Date the result was reported</li> <li>• Test results, which must be one of the following:                             <ul style="list-style-type: none"> <li>o Negative</li> <li>o Positive</li> <li>o Refusal</li> </ul> </li> </ul>

<b>Prospective/Current Employers of CDL Holders OR Service Agents Acting on Behalf of an Employer of a CDL Holder</b>	
Reportable Violations/Information	Types of Information Reported to the Clearinghouse
<p>Refusals to test as detailed in <a href="#">49 CFR 40.261(a)(1)</a> or <a href="#">40.191(a)(1)</a>, which can include, but are not limited to, the following scenarios:</p> <ul style="list-style-type: none"> <li>• The employee fails to appear for any test (except a pre-employment test) within a reasonable time.</li> <li>• The employee fails to remain at the testing site until the testing process is complete.</li> <li>• The employee fails to provide an adequate amount of saliva or breath for any alcohol test.</li> </ul> <p><b>Clearinghouse Legal Standard:</b> <a href="#">382.705(b)(3)</a></p>	<p><b>For each report of a violation of <a href="#">49 CFR 40.261(a)(1)</a> or <a href="#">40.191(a)(1)</a>, (Refusal to Test) the employer must report the following information:</b></p> <ul style="list-style-type: none"> <li>• Documentation, including—but not limited to—electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site. In addition, employers must report the time, date and testing site location at which the employee was directed to appear (or provide an affidavit as evidence of the notification).</li> <li>• Documentation, including—but not limited to—electronic mail, correspondence or affidavit indicating the date the employee was terminated or resigned (if applicable).</li> <li>• Documentation, including—but not limited to—electronic mail, correspondence or affidavit showing that the service agent reporting a violation was designated for an owner-operator when a reported refusal occurred (if applicable).</li> <li>• Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with a copy of all documentation reported to the Clearinghouse.</li> </ul>

Prospective/Current Employers of CDL Holders OR Service Agents Acting on Behalf of an Employer of a CDL Holder	
Reportable Violations/Information	Types of Information Reported to the Clearinghouse
<p>Employers must report the following violations no more than three business days after they obtained knowledge of the following violations:</p> <ul style="list-style-type: none"> <li>• On-duty alcohol use (<a href="#">382.205</a>)</li> <li>• Pre-duty alcohol use (<a href="#">382.207</a>)</li> <li>• Alcohol use following an accident (<a href="#">382.209</a>)</li> <li>• Controlled substance use (<a href="#">382.213</a>)</li> </ul> <p><b>Clearinghouse Legal Standard:</b> <a href="#">382.705(b)(4)</a> and <a href="#">382.705(b)(5)</a></p>	<p><b>For each violation, the employer must report the following information:</b></p> <ul style="list-style-type: none"> <li>• The driver’s name, date of birth, CDL number and the state of issuance.</li> <li>• The employer’s name, address and USDOT number (if applicable).</li> <li>• The date the employer obtained actual knowledge of the violation.</li> <li>• Names and contact information of those who witnessed the violation.</li> <li>• A description of the violation.</li> <li>• Supporting evidence (e.g., photos, videos or affidavits) regarding alleged violations.</li> <li>• A certificate of service or other evidence showing the employer provided the employee with all information reported to the Clearinghouse.</li> </ul>

SAPS	
Reportable Violations/Information	Types of Information Reported to the Clearinghouse
<p>SAPs must report to the Clearinghouse for each driver who has completed the RTD process. SAPs must provide reportable information by the close of the business day following the date of the initial substance abuse assessment.</p> <p><b>Clearinghouse Legal Standard:</b> <a href="#">382.705(d)(1)</a> and <a href="#">382.705(d)(2)</a></p>	<ul style="list-style-type: none"> <li>• As part of reporting, SAPs must provide:                             <ul style="list-style-type: none"> <li>o The SAP’s name, address and telephone number.</li> <li>o The driver’s name, date of birth, CDL number and state of issuance.</li> <li>o The date of the initial SAP assessment.</li> <li>o The date the SAP determined the driver is eligible for RTD testing.</li> </ul> </li> </ul>

## Penalties

When it comes to reporting, the FMCSA expects information provided to be truthful and accurate. An employer or service agent who knowingly submits false information to the Clearinghouse may be subject to criminal or civil penalties. Employers and consortium/third-party administrators are required to provide specific documentation to support the reporting of actual knowledge or a refusal to test. The FMCSA will remove information from a driver's Clearinghouse record that is determined to be false.

## Driver Notification and Consent

There are specific steps employers need to follow in order to avoid violating the privacy of their drivers. In fact, the Clearinghouse regulation explicitly states that motor carriers may not query the Clearinghouse without first obtaining a driver's written or electronic consent.

The type of consent required depends on the type of query. For a limited query, general consent is required. This must be obtained outside the Clearinghouse. Employers may obtain a multiyear general consent from the driver for limited queries. For a full query, the driver must provide specific, prior consent to the employer. This consent must be provided electronically within the Clearinghouse.

The employer conducting the search must retain the consent for three years from the date of the last query.

**Driver information will be shared only with the FMCSA and other agencies as required to enforce drug and alcohol use testing regulations.**

Driver information will not be available to the public. Only authorized users will be able to register and access the Clearinghouse for designated purposes. The Clearinghouse will require authentication (a username and password) to access records, and the FMCSA must notify a driver when information concerning that driver has been added to, revised or removed from the Clearinghouse.

When information concerning a driver has been released from the Clearinghouse to an employer, the employer must specify the reason for the release in a notice that also informs the driver how to access his or her information in the Clearinghouse.

## Updating Programs and Policies on the Misuse of Alcohol and Controlled Substances

The FMCSA's regulations require employers to provide their drivers with educational materials about the FMCSA's drug and alcohol testing program requirements as well as about workplace policies for implementing those requirements. The new rule also requires employers to include notice in the educational materials that violations of FMCSA's drug and alcohol testing program would be reported to the Clearinghouse.

One of the simplest ways to educate your drivers about the Clearinghouse and reduce the risk of impaired driving in your fleet is through controlled substance and alcohol testing programs and policies.

### Controlled Substance and Alcohol Testing Programs

As an employer, you have a responsibility to implement drug and alcohol testing programs. The primary goal of these programs is to ensure your fleet does not allow a driver to operate a commercial motor vehicle if:

1. The driver receives a positive, adulterated or substituted drug test result.
2. The driver receives an alcohol confirmation test result of 0.04 or higher.
3. The driver refuses to submit to a test for drugs or alcohol.
4. The driver drank alcohol while performing safety-sensitive functions or within four hours of performing safety-sensitive functions.
5. The driver used a controlled substance.

At a minimum, these programs should identify where and when employees will be tested. Again, the FMCSA has very specific requirements as to when drug and alcohol tests must occur. As such, employers must have an understanding of these requirements and ensure drivers are being tested appropriately at certified testing facilities. The chart below lists the testing types and includes details of when each type of test should be administered:

<b>When Drug and Alcohol Tests Occur</b>	
<b>Type of Test</b>	<b>Notes</b>
<b>Pre-employment</b>	Before permitting a commercial driver's license holder to operate a commercial motor vehicle, employers must receive a negative drug test result.
<b>Post-accident</b>	<p>Drug and alcohol tests may be required after crashes that involved:</p> <ul style="list-style-type: none"> <li>• A human fatality</li> <li>• A bodily injury that required immediate medical treatment away from the accident scene</li> <li>• A tow-away</li> </ul> <p>In some instances, drivers may also receive a citation they would have to pay themselves.</p>

<b>Random</b>	<p>CDL drivers must be tested randomly throughout the year. Annually, the DOT sets random testing rates carriers must follow. For instance, if the random testing rate for the year is 25% for drug testing and a carrier employs 500 drivers in safety-sensitive roles, they would need to perform 125 random drug tests throughout the calendar year.</p>
<b>Reasonable suspicion</b>	<p>If drivers appear to be under the influence of drugs or alcohol, they may be tested immediately. Employers must train supervisors on the signs and symptoms of driver impairment, which can include physical- (e.g., slurred speech, sweating and poor balance), psychosocial- (e.g., irritability, forgetfulness and poor focus) and performance-related indicators (e.g., taking extended breaks, calling in sick frequently and changes in work quality). At a minimum, supervisors of commercial motor vehicle drivers must have the following training:</p> <ul style="list-style-type: none"><li>• Sixty minutes of training on the symptoms of alcohol abuse</li><li>• Sixty minutes of training on the symptoms of controlled substance use</li></ul>

<p><b>Return-to-duty</b></p>	<p>This type of testing is required for drivers who meet both of the following criteria:</p> <ol style="list-style-type: none"> <li>1. Tested positive for, refused or violated the prohibitions of 49 CFR Part 382 Subpart B</li> <li>2. Completed the return-to-duty process with a DOT-qualified SAP</li> </ol> <p>Under the return-to-duty test, a negative result is required before a driver can resume their role.</p>
<p><b>Follow-up</b></p>	<p>This type of testing is required for drivers who meet both of the following criteria:</p> <ol style="list-style-type: none"> <li>1. Tested positive for, refused or otherwise violated the prohibitions of 49 CFR Part 382 Subpart B</li> <li>2. Completed the return-to-duty process with a DOT-qualified substance abuse professional</li> <li>3. Tested negative for a return-to-duty test</li> </ol>

### Written Policies Related to Controlled Substance and Alcohol Misuse

The FMCSA requires carriers to develop a written policy on controlled substance use and alcohol misuse in the workplace as part of their drug and alcohol programs. Carriers must also communicate the contents of this policy to their drivers.

At minimum, a carrier’s written policy should contain:

- A statement outlining the policy’s objectives
- Information regarding the effects of alcohol and controlled substances
- An overview of which drivers are subject to testing
- An explicit statement that employee participation is required

- Details regarding when employees must adhere to policy requirements (e.g., while on duty, four hours prior to work or while performing safety-sensitive functions)
- A list of prohibited behaviors and behaviors that constitute a refusal to submit to a test
- A summary of when testing may occur
- Details regarding testing procedures
- The consequences of failing a test
- The name of an individual who can answer questions related to the policy

The FMCSA also requires carriers to secure a signed statement from each employee confirming that the employee has received the policy and understands what's expected of him or her.

As you develop your policy, consider involving other key members of your organization, like union representatives, medical review officers, SAPs, breath alcohol technicians and screening test technicians. It's also important to review your policy alongside legal representatives, who can help you ensure there are no conflicts between the provisions of your policy and FMCSA, federal, state or local regulations.

## Compliance Considerations: Drivers

Once a driver has registered for the Clearinghouse, he or she will be able to electronically access his or her own driver records at no cost. Records will include any violation information available in the Clearinghouse, along with the status of the driver's RTD process, if applicable.

In addition, drivers can use the Clearinghouse to:

- Provide consent to release detailed violation information to a current or prospective employer; and
- Identify a SAP so that the SAP may enter specific information regarding the driver's RTD activities.

The following sections will examine Clearinghouse compliance considerations from a driver's perspective.

### Types of Drivers Affected by the Clearinghouse

The Clearinghouse rule affects all CDL drivers who operate CMVs on public roads, which include, but are not limited to:



Employees of interstate and intrastate motor carriers, including passenger carriers



School bus drivers



Construction equipment operators



Limousine drivers



Municipal vehicle drivers (e.g., waste management vehicle operators)

In addition, owner-operators are subject to Clearinghouse regulations from both an employer and employee standpoint. To help fulfill their obligations, owner-operators must designate a consortium/third-party administrator as part of the registration process. These administrators will run queries and report violations on the owner-operator's behalf.

Drivers who have questions regarding the Clearinghouse and the role they play should be encouraged to speak with their supervisors.

## Data Privacy and Providing Consent

The Clearinghouse will meet all relevant federal security standards, and the FMCSA will verify the effectiveness of data protections on a regular basis. Again, driver information will not be available to the public.

The FMCSA will only share detailed drug and alcohol violation information with prospective or current employers when a driver has provided explicit consent. What’s more, driver information will only be shared with the FMCSA and other enforcement agencies as required.

There are effectively two types of consent—one for limited queries, and another for full queries. The table below outlines the distinctions between these two types of consent.

The Two Types of Consent	
Consent For Limited Queries	Consent For Full Queries
<p>Employee can provide general consent outside the Clearinghouse portal. Employees may provide multiyear consent for limited queries. Consent for limited queries could be provided in many ways, but will most often be in written or electronic form (e.g., general consent form or email). Add this under Consent For Limited Queries</p> <p>For a sample limited consent form from the FMCSA, click <a href="#">here</a>.</p>	<p>Employee must provide specific consent to the employer electronically within the Clearinghouse portal.</p>

If a driver refuses to provide consent, they will not be allowed to perform safety-sensitive functions. Drivers will have the right to request that inaccurate information in the Clearinghouse be corrected or removed. However, drivers may only challenge the accuracy of information reported, not the accuracy or validity of test results or refusals to test.

It should be noted that drivers will only be able to access their own information, not information regarding other drivers.

## Continued Safety

As an employer, it's your job to protect your drivers whenever they're on duty. Utilizing the Clearinghouse will not only ensure FMCSA compliance, but it will help prevent impaired driving in your fleet and improve highway safety for everyone on the road.

However, there's more to driver safety than drug and alcohol program compliance. To safeguard the well-being of your employees and to proactively address all of your exposures, contact North Risk Partners today. We can provide a number of risk management resources to help you account for common motor carrier pain points, allowing you to focus on growing your business.



# Appendix

## Clearinghouse FAQs

Use this list of frequently asked questions to help your fleet meet CDL Drug and Alcohol Clearinghouse requirements.

### **Does every driver need to register for the Clearinghouse?**

No. Clearinghouse registration is not a required step for drivers. If a driver is never required to provide consent to a pre-employment or other full query, and never incurs a drug and alcohol program violation, then the driver will not need to register for the Clearinghouse.

However, a driver will need to be registered to provide electronic consent in the Clearinghouse for a prospective or current employer to conduct a full query of his or her driver record. A full query releases detailed violation information contained in a driver's Clearinghouse record to the querying employer.

Beginning Jan. 6, 2020, a full query will be required during a pre-employment driver investigation for a CDL holder who will perform safety-sensitive functions, including operating a CMV. Early registration will allow drivers to respond quickly to a query request. A driver must also be registered to view the information electronically in his or her own Clearinghouse record.

### **Does the final rule change any existing drug and alcohol requirements?**

No, the final rule does not change any existing requirements in U.S. DOT procedures for transportation workplace drug and alcohol testing.

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

An employer or service agent who knowingly submits false information to the Clearinghouse may be subject to criminal or civil penalties. Employers and consortium/third-party administrators are required to provide specific documentation to support the reporting of actual knowledge or a refusal to test. The FMCSA will remove information that is determined to be false from a driver's Clearinghouse record.

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

Yes, all Mexican or Canadian employers, employees or service agents operating in the U.S. that are subject to the FMCSA drug and alcohol testing requirements must comply with the Clearinghouse final rule.

### **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.

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

No. The Clearinghouse will contain only drug and alcohol 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 an employee was subject to DOT drug and alcohol testing required by a DOT modal administration other than the FMCSA (as required by [§ 391.23\(e\)\(4\)\(i\)\(B\)\)](#) .

Safety-sensitive employees under the Federal Transit Administration umbrella should not be included in the Clearinghouse database.

If an employee performs safety-sensitive functions that would subject him or her to the DOT testing programs of more than one DOT agency, the employee will be subject to random alcohol or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50% of the employee's safety-sensitive work, as per [§ 382.305 \(n\)\(0\)](#) . This situation may occur when an employee performs both CDL functions and pipeline maintenance functions for a DOT-regulated employer.

**Will violations that occur before the Clearinghouse implementation date be included in the Clearinghouse?**

No. The Clearinghouse will contain only violations that occurred on or after Jan. 6, 2020. If a driver's violation occurred prior to Jan. 6, 2020, and is in the return-to-duty process when the Clearinghouse is implemented, the violation and any related return-to-duty activity will not be entered into the Clearinghouse.

**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 non-DOT testing may not be reported to the Clearinghouse.