

DRUG & ALCOHOL CLEARINGHOUSE

MMTA/APTA TRANSPORTATION SAFETY CONFERENCE

Monday, September 20, 2021



DRUG & ALCOHOL CLEARINGHOUSE



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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

Timeline: Drug and Alcohol Clearinghouse

March 2019

Information Phase

- Clearinghouse website launched
- Subscribe for email updates

October 2019

Registration Opens

Create your user account ahead of implementation date

November 2019

Query Plans Available for Purchase

Purchase your query plan ahead of implementation date

January 6, 2020

Implementation Date

- Mandatory reporting begins
- Both electronic and manual queries required

January 6, 2023

3-Year Post Implementation

- Clearinghouse contains 3 years of violation data
- Only electronic queries required



Current Clearinghouse Statistics

Total Organizations Registered in the Clearinghouse
as of 08/01/2021

259,731

Employers

110,245

As Owner-Operators

11,965

C/TPAs

3,375

SAPs



1,812

MROs



Drug and Alcohol Test Results By Test Type as of
08/01/2021 (Since 01/06/2020)

| Test Type | Drug | Alcohol | Total |
|-------------------------|---------------|--------------|---------------|
| Total Violations | 88,683 | 2,056 | 90,739 |

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 Limited query returned records found for queried driver Ad hoc/periodic check on 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 If driver has a violation and a negative RTD test result, no action required |

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 |
|---|---|--|
| <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p style="text-align: center;">Prospective/Current Employer of CDL Driver</p> <p style="text-align: center;">Or</p> <p style="text-align: center;">Service agent acting on behalf of Current Employer of CDL Driver</p> | <p>An alcohol confirmation test with a concentration of 0.04% or higher.</p> <p>Refusal to test (alcohol) as specified in 49 CFR 40.261.</p> <p>Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.</p> <p>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.</p> <p>Negative RTD test results (drug and alcohol testing, as applicable)</p> <p>Completion of follow-up testing.</p> | <p style="text-align: center;">By the close of the 3rd business day</p> |

Medical Review Officers (MROs) and Substance Abuse Professionals (SAPs)

■ MROs:

1. **WORK** for MRO company(ies), or self-employed
2. **REGISTER** for the Clearinghouse and complete the verification process
3. **ENTER** drug violation information to the Clearinghouse
4. **DESIGNATE** MRO Assistant(s) to enter violation information on their behalf

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



■ SAPs:

1. **WORK** for SAP company(ies), or self-employed
2. **REGISTER** for the Clearinghouse and complete the verification process
3. **ENTER** RTD information into the Clearinghouse (date initial assessment completed, date driver eligible for RTD test)
4. **DESIGNATE** SAP Assistant(s) to enter RTD information on their behalf

Driver must identify the SAP in the Clearinghouse before the SAP may enter RTD information in the Clearinghouse.

Reporting to the Clearinghouse

What information is the MRO or SAP required to report?

| | INFORMATION TO BE REPORTED TO CLEARINGHOUSE | DEADLINE FOR REPORTING INFORMATION |
|---|---|--|
| MRO  | Verified positive, adulterated, or substituted drug test result | Within two business days of making a determination or verification of a DOT-approved drug test |
| | Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191 | |
| | Changes a verified drug test per 49 CFR Part 40 | Within one business day of making any change in the reported results |
| SAP  | Identification of driver and date the initial assessment was initiated | By the close of the business day following the date of initial assessment |
| | Date of determination of eligibility for RTD testing | By the close of the business day following the determination that the driver completed the RTD process |

Frequently Asked Questions

- **Will violations that occurred prior to January 6, 2020, be reported to the Clearinghouse?**
 - No, only violations that occur on January 6, 2020, or later.
- **How long is the violation information retained in the Clearinghouse?**
 - 5 years, unless the RTD and follow-up testing is not completed (will be retained indefinitely until follow-up testing is successfully completed).
- **Will a prospective employee's drug and alcohol violation history with other DOT modes 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.

Frequently Asked Questions

- **Will every driver need to register in the Clearinghouse?**
 - No. A driver will only need to register if they need to provide consent to the employer in the Clearinghouse for pre-employment/full queries.
 - If a driver is currently with an employer, never incurs a drug or alcohol violation, and never seeks other employment, then the driver does not need to register in the Clearinghouse.
- **Can an employer register their drivers in the Clearinghouse?**
 - No. Each individual driver will need to register himself or herself. Registration and login will require users to complete the verification process
- **Are employers of non-CDL drivers who operate CMVs required to query or report violations to the Clearinghouse?**
 - No. Only employers who employ drivers subject to Parts 382 and 383 must query or report information to the Clearinghouse.
- **Can an employer or MRO enter a drug and alcohol program violation if the driver is not registered for the Clearinghouse?**
 - Yes. The Clearinghouse will associate the violation with a driver's CDL information. This will be recorded even if the driver has not registered for the Clearinghouse.

Frequently Asked Questions

- **Will the employer be notified if a new violation is recorded on previously queried driver?**
 - The employer will receive a notification if a new violation was recorded in the Clearinghouse for the queried driver within 30 days of conducting a pre-employment query (30-day look back).
 - The employer must receive additional electronic consent from the driver before a full query can be conducted to view detailed violation information.
- **Will the employer receive notification of new violations within 30 days of all completed queries?**
 - The employer will not receive a notification of new violations after completing a limited (including annual) query or ad hoc full query.
 - The employer will receive a notification if a new violation was recorded in the Clearinghouse for the queried driver within 30 days of conducting a pre-employment query (30-day look back).

Frequently Asked Questions

- **Are Canadian and Mexican drivers conducting operations in the United States subject to the Clearinghouse requirements?**
 - Yes, only Canadian and Mexican drivers operating in the United States are required to comply with FMCSA drug and alcohol testing requirements and must comply with the Clearinghouse final rule.

- **Must Canadian and Mexican employers report drug and alcohol program violations to the Clearinghouse?**
 - Yes, only Canadian and Mexican employers operating in the United States are required to comply with FMCSA drug and alcohol testing requirements and must report drug and alcohol violations to the Clearinghouse.

Frequently Asked Questions

- **Can an employer designate more than one C/TPA?**
 - Yes.
- **Who will record positive alcohol results for an owner/operator?**
 - The designated C/TPA would be responsible to record this violation information regarding the owner/operator they work with.
 - An owner/operator may view and query their own information.
 - An owner/operator will be required to self-identify as an owner/operator and will be required to designate a C/TPA to access their Clearinghouse account.

Frequently Asked Questions

- **Will a driver's follow-up testing plan be available in the Clearinghouse?**
 - No, follow-up testing plans will not be uploaded into the Clearinghouse.
 - When a prospective employee has not completed a follow-up testing plan prescribed by the SAP, the subsequent new employer must continue to obtain the follow-up testing plan from the previous employer, as required in §382.413, and complete the follow-up testing.

- **Will follow-up testing be tracked within the Clearinghouse?**
 - No, follow-up testing will not be tracked in the Clearinghouse.
 - However, if there is a positive follow-up test result, it must be reported as a new violation.
 - The RTD process would be re-initiated after the new violation is entered.

Frequently Asked Questions

- **Is the driver's social security number (SSN) or employee identification number (EIN) required when reporting violation information or querying the Clearinghouse?**
 - No, per §382.123, the employer shall provide the driver's CDL number and state of issuance
- **What information is required on the Custody and Control Form (CCF) or Alcohol Testing Form (ATF)?**
 - The driver's CDL number and state of issuance must be entered in lieu of the driver's SSN or EIN
- **Will FAQs and other outreach materials about the Clearinghouse be updated?**
 - Yes, our website at <https://clearinghouse.fmcsa.dot.gov> will be updated regularly with new information, including the factsheet and FAQs. In addition, you will be able to sign up for email updates.

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

