

## Preparing for the FMCSA Clearinghouse

This highly anticipated regulation will go into effect on January 6, 2020. The purpose of this communication is to provide an update regarding changes in preparation for the new requirements.

### WHAT IS THE FMCSA CLEARINGHOUSE?

The Clearinghouse is a secure online database that will give employers and other authorized users real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations. The Clearinghouse rule requires FMCSA-regulated Employers, Medical Review Officers (MROs), Substance Abuse Professionals (SAPs), Consortia/Third-Party Administrators (C/TPAs), and other service agents to report to the Clearinghouse information related to violations of the drug and alcohol regulations in 49 Code of Federal Regulations, Parts 40 and 382 by current and prospective employees.

The Clearinghouse will enable employers to identify drivers who commit a drug and alcohol program violation while working for one employer but fail to subsequently inform another employer (as required by current regulations). Employers will be required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a CMV on public roads, and to annually query the Clearinghouse for each driver they currently employ. An act of Congress directed the Secretary of Transportation to establish the Clearinghouse.

Download the Clearinghouse Factsheet

here: <https://clearinghouse.fmcsa.dot.gov/Resource/Index/Factsheet>

### REGISTRATION

Registration is currently open. Please register as soon as possible if you haven't already.

- Register here: <https://clearinghouse.fmcsa.dot.gov/Register>
- Instructions on registration as an Employer: <https://clearinghouse.fmcsa.dot.gov/Resource/Index/Registration-Employer-Instructions>
- Once you are registered, please assign CBSS as your designated C/TPA so we may conduct queries and/or report violations on your behalf.

### RESPONSIBILITIES

There are two main responsibilities for employers:

1. Query the database as required (pre-employment on applicants and annually on all employees). This is an employer responsibility, but you may designate us as the C/TPA to carry out these tasks.

## QUERY TYPES

- **Full:** Used for pre-employment purposes. Provides full details, if any, on any drug/alcohol history in the Clearinghouse. Driver consent is required and is done through the Clearinghouse. Registered drivers will receive an email to provide consent. Drivers that have not yet registered for the Clearinghouse will receive the request for consent via US Mail. To make the process as efficient as possible, you should encourage applicants to register with the Clearinghouse before requesting employment verification.
- **Limited:** Required on all FMCSA-regulated drivers annually. You must obtain consent on your own; the form is attached. A limited query does not provide full details; rather, it will only indicate the existence of any records in the Clearinghouse. If a limited query reveals the existence of a record in the Clearinghouse, a full query must be run within 24 hours. The full query does require consent, which will be done through the Clearinghouse (via email or US Mail); however, you will not be charged another query fee. You should encourage all current employees that are FMCSA-regulated to register for the Clearinghouse in the event that a full query is needed.
  - Note on limited queries: For those employers with a high volume of drivers, a batch import template will be available for your annual query process.

**2.** Report certain drug/alcohol test results to the Clearinghouse. Employers and/or their designated C/TPAs must report certain results to the Clearinghouse. Who reports the result will vary based on circumstance.

Generally, the C/TPA (CBSS) will report:

- Alcohol confirmation test results  $\geq 0.04$
- Negative Return to Duty test results
- Refusal to test drug or alcohol (e.g. not providing an adequate urine specimen and then refusing to stay and provide an adequate specimen; refusing to take an alcohol test while at the facility; etc.)

If a refusal occurs and the drug/alcohol testing facility contacts us, we will report these violations to the Clearinghouse. Sometimes, the facility contacts the employer directly, in which case the you must either report the violation or let us know so we can do so for you.

The employer (you) will report:

- Refusal to test drug or alcohol (e.g. refusing to go to the drug testing facility and be tested)
- Actual knowledge of a drug/alcohol violation
- Successful completion date for all SAP-ordered follow-up tests

See chart below (and attached) for a full list of reporting responsibilities for all parties.

FMCSA CLEARINGHOUSE REPORTING RESPONSIBILITIES			
RESPONSIBLE ENTITY/VIOLATION	EMPLOYER/ DESIGNATED TPA	MRO	SAP
Alcohol confirmation test results >/= 0.04	X		
Refusal to test - Alcohol [*Pursuant to 49 CFR 40.261]	X		
Refusal to test – Drug Not requiring a determination by the MRO [*Pursuant to 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1)]	X		
Actual knowledge, as defined in § 382.107	X		
Negative RTD test results	X		
Successful completion date for all SAP-ordered follow-up tests	X		
Verified positive, adulterated, or substituted controlled substances test results		X	
Refusal-to-test requiring a determination by the MRO [*In accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2), or 40.193]		X	
Changes to MRO verified final results		X	
Date of initial SAP assessment			X
Successful completion of treatment and/or education and the determination of eligibility for RTD testing.			X

**BILLING**

You are required to purchase query credits directly through the Clearinghouse. Each full or limited query is \$1.25. In addition to this fee, CBSS will begin charging a **\$5 surcharge** on all DOT verifications effective 01/06/2020.

**WHERE CAN ADDITIONAL INFORMATION BE FOUND?**

Additional information can be found on the Clearinghouse website and in the Federal Regulations located at: <https://clearinghouse.fmcsa.dot.gov>