



What You Need To Know About The FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse

Shawn P. O'Neil, CSAP

Executive Vice President

Account Management & Chief Compliance Officer

On January 6, 2020, the FMCSA's Commercial Driver's License Drug and Alcohol Clearinghouse will go into effect. Employees, Applicants, Permit Holders, Employers, Medical Review Officers, Substance Abuse Professionals, and Third-Party Administrators all have an obligation and responsibility to use the clearinghouse beginning January 6th. The clearinghouse will be a repository of the following information:

- A verified positive, adulterated, or substituted drug test result
- An alcohol confirmation test with a concentration of 0.04 or higher
- A refusal to submit to any test required by 382 subpart C
- An employer's report of actual knowledge as defined in 382.107
- A substance abuse professional (SAP) report of successful completion of the return to duty process
- A negative return to duty test
- An employer's report of completion of follow-up testing

For Drivers:

As a commercial motor vehicle driver subject to drug and alcohol testing under 49 CFR Parts 40 and 382, the driver's first responsibility is to register in the clearinghouse. Registration is now open for the clearinghouse and FMCSA has provided step by step walkthrough instructions in their learning center on how to register. During registration, Drivers should set their contact notification preference to email, which will enable them to respond quickly to query requests from employers and avoid delays in the

hiring process and also allow them to receive updates when an entry is made on their record. Keep in mind that notifications will include time-sensitive requests for actions drivers need to take in the Clearinghouse. The driver must provide consent within 24 hours of an annual query or risk being removed from performing safety-sensitive functions, U.S. Mail may result in delays in these notifications.

In addition, after January 6, 2020, drivers will be required to use their CDL State and CDL Number on the Chain Of Custody (CCF) and Alcohol Testing Forms (ATF) instead of their social security number or employee ID. FMCSA views your CDL State and CDL Number as the employee's identification, all data will be captured in the clearinghouse using this as the key identifier.

If a driver has a violation that requires them to use a Substance Abuse Professional (SAP), the driver will need to designate this individual in the clearinghouse. This will enable the SAP to indicate when the driver has completed their assessment and are ready to begin the required return-to-duty and follow-up testing.

FMCSA has provided a means for drivers to dispute data that is uploaded in error to their record or to request removal of any DUIs that did not result in a conviction. The dispute process is not a means for challenging a verified drug or alcohol test.



For Employers

Employers need to register and purchase query plans to be ready for the January 6, 2020 compliance date. Both of these steps can be completed by visiting the FMCSA Clearinghouse web site. Completing these steps will allow employers to be compliant by checking the Clearinghouse when hiring a new driver in a safety-sensitive role and on an annual basis. Along with the pre-employment query, employers will need to continue to reach out to previous employers as required under 49 CFR Part 40.25 until January 2023.

Consent for a pre-employment search, or a full annual search, can only be provided by the driver through their clearinghouse dashboard. The driver will receive a notification from the clearinghouse when an employer or C/TPA requests a full query. Failure to provide consent or rejection of consent within 24 hours of a full annual query will require the employer to remove the driver from safety-sensitive functions.

Employers may also run a limited query on an annual basis, which will only indicate if the driver has a record in the clearinghouse. Consent for a limited query will need to be collected by the employer on a general consent form outside of the clearinghouse. If a limited query indicates that the driver has a record in the clearinghouse, the employer will be required to run a full query to access the information. As this would be a full query, the driver will be required to provide consent within the clearinghouse; the general consent form can only apply to a limited query.

How will FSSolutions help our clients?

We understand that this is a lot of information to handle, and we are here to assist you. We will provide you with news and updates as the FMCSA releases more information. We are registered as a TPA with the Clearinghouse so that carriers will be

able to designate FSSolutions as their TPA. If you have any questions or are interested in learning more about FSSolutions' Clearinghouse services, please email clearinghouse@fssolutions.com

Resources:

For further information on the clearinghouse:

- FMCSA Clearinghouse:
<https://clearinghouse.fmcsa.dot.gov>
- Clearinghouse Learning Center:
<https://clearinghouse.fmcsa.dot.gov/Learn>
- Drivers Step by Step Registration Instructions:
<https://clearinghouse.fmcsa.dot.gov/Resource/Index/Registration-Driver-Instructions>
- FMCSA Consent and Queries Fact Sheet:
<https://clearinghouse.fmcsa.dot.gov/Resource/Index/Query-Consent-Factsheet>
- FMCSA Sample Limited Consent Form:
<https://clearinghouse.fmcsa.dot.gov/Resource/Index/Sample-Limited-Consent-Form>