



## The Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse: Applies to Public Entities

The Federal Motor Carrier Safety Regulations established the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to improve roadway safety by identifying commercial motor vehicle drivers who have committed drug and alcohol violations that render them ineligible to operate a commercial motor vehicle. The Clearinghouse is mandated by Congress (MAP-21, Section 32402) and was implemented on January 6, 2020. The purpose of the Clearinghouse is to maintain records of all drug and alcohol program violations in a central repository and require that employers query the system to determine whether prospective or current employees have incurred a violation to facilitate real time communication. Violations follow the driver for five years regardless of how many times he or she changes employers, seeks employment, or applies for a commercial driver's license (CDL) in a different state.

All CDL drivers who operate commercial motor vehicles on public roads, their employers, and their service agents are subject to the Clearinghouse rule. "Commercial motor vehicle" refers to a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle weights 26,001 pounds or more inclusive of towed units, is designed to transport 16 or more passengers including the driver, or is of any size and is used in the transportation of hazardous materials. The definition of "commercial motor vehicle" also includes municipal vehicles such as waste management, shuttle buses designed to transport 16 or more passengers, and school buses. Government entities are not required to obtain a USDOT Number, but they are subject to the Controlled Substance and Alcohol Testing regulations in 49 CFR Part 382.

Drivers who hold a CDL or commercial learner's permit, employers of CDL drivers, medical review officers, and substance abuse professionals are all required to use the Clearinghouse. Employers may use a third-party administrator to assist with queries and reporting. Users must log into the Clearinghouse violations of the drug and alcohol testing program including positive drug or alcohol test results, test refusals, return-to-duty (RTD) status and process completion and follow up testing plan.

Users must first register with the Clearinghouse to query or record information. **Employers are required to conduct queries in the Clearinghouse when hiring a new CDL holder and annually for all employed CDL holders, and the drivers' consent is mandatory.** Current and potential employers send a request for query to the driver. A driver's failure to provide consent to a request for a full query will result in the driver being prohibited from performing safety-sensitive functions, including operating a commercial motor vehicle for that employer in accordance with 49 CFR 382.709.

A preemployment query must be completed manually until January 5, 2023, for a three-year driver history. **Drivers are not required to register for the Clearinghouse, but they must be registered to respond to electronic consent requests from prospective and current employers.**

Employers, medical review officers, or designated representatives are required to report positive drug test results, alcohol test results greater than .04, refusals to test, and other non-test violations of the regulations. Regulation 49 CFR part 382 applies to operators of commercial motor vehicles and their employers and requires that employers conduct preemployment drug testing, post-accident testing, random drug and alcohol testing, and reasonable suspicion testing. The employer must also conduct RTD testing and follow up testing for drivers that test positive or otherwise violate the Department of Transportation drug and alcohol program requirements.

If a CDL holder has a drug and alcohol program violation recorded in the Clearinghouse, the CDL holder must be removed from safety-sensitive functions until the RTD process is completed. The RTD process includes referral to a substance abuse professional, an assessment, and process to become eligible for RTD testing.

Clearinghouse registration began for all user roles on September 28, 2019. Employers must retain documents related to the administration of employers' drug and alcohol testing programs for a minimum of five years. For information on how to register and details on using the Clearinghouse, please access the resources below.

#### Resources

Federal Motor Carrier Safety Administration

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

Federal Register

<https://www.federalregister.gov/documents/2016/12/05/2016-27398/commercial-drivers-license-drug-and-alcohol-clearinghouse>