



# FMCSA Drug and Alcohol Clearinghouse Greatly Changes the Truck Driver Qualification Landscape





**Since 1991 the Federal Motor Carrier Safety Administration (FMCSA), as well as its counterpart agencies in the U.S. Department of Transportation, have required employers to conduct drug testing of personnel conducting safety-sensitive functions. At FMCSA, that primarily impacts commercial motor vehicle (CMV) drivers holding a commercial driver's license (CDL).**

The agency requires these drug tests at pre-employment, annually on a random basis, post-accident, when reasonable suspicion indicates drug or alcohol use, and, for those who fail a drug test, return-to-duty and follow-up tests. Following exacting technical standards set forth by Substance Abuse and Mental Health Services Administration, an arm of the U.S. Health and Human Services Department, the tests check for the presence of marijuana, cocaine, opiates, amphetamines and methamphetamines, and phencyclidine (PCP). Testing positive for a drug test, or registering a 0.04% or greater blood alcohol content, requires immediate removal from safety-sensitive functions – for example, driving a truck - until the return-to-duty process is successfully completed.

At pre-employment time, motor carriers are not only required to have a drug test administered to a driver applicant but must also check with that applicant's prior employers for the past three years, including any failed drug tests.

Motor carriers and professional drivers know and understand these requirements – which is one reason why post-accident tests have shown drug and alcohol use by truck drivers to be far less pervasive than by passenger car operators.

But also widely known in the trucking industry is that unscrupulous drivers were able to hide drug test results by omitting mention of a past employer where a failed test occurred. Another weakness of the system was that some past employers may not respond or be out of business, and so past failed drug tests were not discovered by the hiring carrier. Some states adopted centralized clearinghouses for drug test results conducted in their state; unfortunately, those cannot readily track drivers who move and obtain a CDL elsewhere.

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The trucking industry and law enforcement together pressured Congress to close this safety loophole. Four years ago, Congress passed legislation requiring a nationwide clearinghouse and FMCSA followed up by implementing regulations.

Here are some questions addressed about the [FMCSA Drug and Alcohol Clearinghouse](#):

- Who must register with the clearinghouse?
- Who must check clearinghouse information and how is it done?
- What information will be in the clearinghouse and how will drivers know?
- What are the fees for using the clearinghouse?
- Who must report drug and alcohol violations to the clearinghouse?
- What can state agencies do with the clearinghouse?

## Here's Who Has To Register With The Clearinghouse

As of Jan. 6, 2020, all interstate and intrastate motor carriers employing CDL drivers and consortia/third party administrators (C/TPAs) who administer drug testing for motor carriers and owner-operators must be registered with the FMCSA Drug and Alcohol Clearinghouse. [Clearinghouse registration, news and updates are available online.](#)

**Registration with the clearinghouse allows a driver to electronically view his or her own clearinghouse record.**

Drivers are not, as a rule, required to register with the clearinghouse. However, this applies only if the driver never incurs a drug and alcohol violation and does not need to give consent for a "full" query (discussed below) which is required at pre-employment. However, registration with the clearinghouse does allow a driver to electronically view his or her own clearinghouse record. Data in the clearinghouse is subject to [Privacy Act](#) requirements, allowing drivers to request correction of inaccurate information. Registration with the clearinghouse also allows drivers to locate a substance abuse professional for return-to-duty assistance.

Medical review officers and substance abuse professionals must also register with the clearinghouse.

## Making Clearinghouse Queries, Two Different Types

As of Jan. 6, 2020, motor carriers and C/TPAs are required to query the clearinghouse database for unresolved drug and alcohol violations by all driver applicants. This happens at time of pre-employment and at least once annually for all employed drivers. “Unresolved” violations are those for which the driver has not successfully completed the return-to-duty process under direction by a [DOT substance abuse professional](#). This process includes further testing. Owner-operators are required to retain a C/TPA for clearinghouse purposes, as well as to administer owner-operator participation in a random drug testing pool.

The clearinghouse offers two levels of queries. One is a “limited” query intended for use with current employees. The limited query tells the motor carrier or C/TPA whether there is any information about resolved or unresolved drug and alcohol program violations in the clearinghouse database, but does not release any specific violation information. The other is a “full” query. It is intended principally for use at pre-employment, allows the employer to see detailed information about any drug and alcohol program violations in a driver’s clearinghouse record.

Both levels of query require a driver’s consent. Driver consent for a “limited” query can be by written permission kept in the employer’s office. The written permission for “limited” queries can be for multiple years. A “full” query, on the other hand, requires the driver to provide electronic consent directly into the clearinghouse – which means the driver must be registered with the clearinghouse.

Again, a “full” query is required at time of pre-employment – which includes drivers changing employers as well as new CDL drivers – and may also be triggered if an employer or C/TPA conducting an annual “limited” query for an existing employee discovers that new information has been added to that driver’s clearinghouse record.

## Clearinghouse Information And Driver Notification

The clearinghouse contains records of violations of drug and alcohol prohibitions in [49 CFR Part 382, Subpart B](#), including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty process and follow-up testing plan, this information is recorded in the clearinghouse. The clearinghouse does not itself change any existing requirements for drug and alcohol testing.

The clearinghouse only contains information for violations that occurred on or after Jan. 6, 2020. Because the clearinghouse does not contain information on violations before Jan. 6, 2020, motor carriers must continue to check with an applicant's prior employers until Jan. 6, 2023. Thereafter, carriers will need only check the clearinghouse database.



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Driver violation records are available in the clearinghouse for five years from the date of the violation determination, or until the violation is resolved through the successful completion of the return-to-duty process and follow-up testing plan, whichever is later.

Drivers are notified any time information about them is added, revised or removed. The clearinghouse sends that notification by mail or email,

designated by the driver when registering for the clearinghouse. If the driver is not registered, the notification is mailed to the address on record for the driver's CDL.

## **Using The Clearinghouse Is Not Free**

Employers and C/TPAs querying the clearinghouse are charged a fee. Queries cost \$1.25 for a single query, whether limited or full. Bundles of queries can be purchased, saving employers money. FMCSA recommends purchasing a bundle sufficient to at least cover the annual queries for all existing employees. Details on available bundles can be found on the [clearinghouse website](#). If an employer conducting a limited query finds that a full query is necessary for that driver, no additional fee is charged. No clearinghouse fee is charged for registration or other clearinghouse activities.

## **Reporting Drug And Alcohol Violations To The Clearinghouse**

To fill the clearinghouse database, motor carriers, C/TPAs and medical review officers must report all drug and alcohol violations. Substance abuse professionals must submit updates on return-to-duty and follow-up tests. Employers must report violations by the close of the third business day following receipt of the information. Medical review officers must report making a determination or verification within two business days. A handy role card for all users of the clearinghouse is available on the [clearinghouse website](#).

## **Impact on State Driver Licensing Agencies**

FMCSA recently extended to Jan. 6, 2023, the time when state driver licensing agencies (SDLAs) must query the clearinghouse database prior to completing licensing transactions, such as issuance, renewal, transfer and upgrades of

a CDL. SDLAs may voluntarily do so now. The same SDLA queries apply to applicants for commercial learner's permits as well as CDLs.

In completing its clearinghouse rulemaking, FMCSA estimated annual net benefits of \$42 million through crash reductions. While no system will close every loophole, the FMCSA Drug and Alcohol Clearinghouse helps employers, the agency, state driver licensing agencies, and state law enforcement in many ways. It allows them to quickly and efficiently identify drivers who are not legally permitted to operate CMVs due to drug and alcohol program violations, regardless of where they have moved, where they are licensed and where they have worked.

**For more information, visit the FMCSA Drug and Alcohol Clearinghouse website at <https://clearinghouse.fmcsa.dot.gov>.**

## **PrePass Can Help**

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