



# Loss Control Insights

## Drug and Alcohol Clearinghouse

Are municipal entities in Pennsylvania required to participate in the Clearinghouse mandate?

The answer to that is YES! All CDL drivers who operate CMVs on public roads, and their employers and service agents are required to use the Clearinghouse and this includes municipal drivers.

### **Purpose:**

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 current and prospective employees have incurred a drug or alcohol violation that would prohibit them from performing safety-sensitive functions covered by the FMCSA and U.S. Department of Transportation (DOT) drug and alcohol testing regulations.

This provide employers the necessary tools to identify drivers who are prohibited from operating a CMV and ensure that such drivers receive the required evaluation and treatment before resuming safety-sensitive functions. Specifically, information maintained in the Clearinghouse will ensure that drivers who commit a drug or alcohol violation while working for another employer, or who attempt to find work with another employer, do not perform safety-sensitive functions until completing the return-to-duty process.

The Clearinghouse Rules requires the following:

- Employers must query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle (CMV) on public roads.
- Employers must annually query the Clearinghouse for each driver they currently employ.

### **When Must I Use the Clearinghouse?**

January 6, 2020:

Authorized users will be required to complete the actions described in the Clearinghouse final rule. At this time, employers will be required to conduct both electronic queries and traditional manual inquiries with previous employers to meet the three-year timeframe, required by FMCSA's drug and alcohol use testing program, for checking CDL driver violation histories. Drivers may also view their own records for information recorded on or after January 6, 2020.

January 6, 2023:

Once three years of violation data are stored in the Clearinghouse, employers are no longer required to also request information from the driver's previous FMCSA-regulated employers, an employer's query of the Clearinghouse will satisfy that requirement.

### **What information will the Clearinghouse contain?**

- Report for duty/remain on duty for safety-sensitive function with alcohol concentration of 0.04 or greater or while using any drug specified in the regulations (Part 40), other than those prescribed by a licensed medical practitioner

- Alcohol use while performing, or within four hours of performing, a safety-sensitive function
- Alcohol use within eight hours of an accident, or until post-accident test, whichever occurs first
- Refusing to submit to a required alcohol or drug test
- Test positive for use of specified drugs

### **How will the Clearinghouse be Used?**

- Employers - Report drug and alcohol violations and check that no current or prospective employee is prohibited from performing safety-sensitive functions, such as operating a CMV, due to a drug and alcohol program violation for which a driver has not successfully completed a Return-To-Duty (RTD) process.
- CDL Drivers - View own record, provide consent to current or prospective employers to access details about any drug and alcohol program violations, and select a Substance Abuse Professional, if needed.
- Medical Review Officers - Report verified positive drug test results and test refusals.
- Substance Abuse Professional - Report RTD initial assessment and eligibility status for RTD testing.
- Consortium/Third-Party Administrators - On behalf of an employer, report drug and alcohol program violations and perform driver queries as required.
- Employers will also need to have drivers sign an acknowledgment that they received copies of the notice or policy amendments and maintain copies of such for their records.

### **Reporting**

Drivers are to self-report positive test results while employers to conduct and/or respond to background checks and ongoing driver compliance.

Each time information is added to, modified, or removed from the Clearinghouse, FMCSA will notify the affected driver. To receive electronic notification, drivers will have to register with the Clearinghouse.

Employers must:

- Maintain records of all drug and alcohol violations for a minimum of five years
- Keep records of all queries made
- Retain the results of those queries until Jan. 6, 2023

### **Queries**

- Employers will be required to query the Clearinghouse for prospective employees' drug and alcohol violations.
- Employers will be required to perform an annually query in the Clearinghouse for each driver they currently employ.

- The National Transportation Safety Board (NTSB) will be able to access Clearinghouse information for drivers involved in a crash under investigation by the NTSB.

Drivers must register in the Clearinghouse to provide consent for pre-employment queries and employers must obtain a driver's consent before querying the driver's violation information

Drivers who decline their consent cannot perform safety- sensitive functions (including operating a CMV) for that employer

There are two types of queries – limited and full – based on the reason for the query.

Query Type	Reason for Query	Consent Requirements	Consent Responses and Required Actions	Query Results and Required Actions	
<b>LIMITED QUERY</b>	Annual check on currently-employed driver	Outside the Clearinghouse	<p><b>Consent refused</b></p> <ul style="list-style-type: none"> <li>• Query cannot be conducted</li> <li>• Driver removed from safety-sensitive functions</li> </ul> <p><b>Consent provided</b></p> <ul style="list-style-type: none"> <li>• Retain via paper or electronically in driver's qualification file</li> <li>• Request limited query in the Clearinghouse</li> </ul>	<p><b>No records found in the Clearinghouse for queried driver</b></p> <ul style="list-style-type: none"> <li>• No action required</li> </ul> <p><b>Records found in the Clearinghouse for queried driver; full query needed</b></p> <ul style="list-style-type: none"> <li>• Full query must be conducted for violation and/or return-to-duty (RTD) details to be released</li> <li>• If full query is not conducted within 24 hours, driver is removed from safety- sensitive functions, including operating a CMV</li> </ul>	
	OR	May be electronic or wet signature			Ad hoc/periodic check on driver
<b>FULL QUERY</b>	Pre-employment check on prospective driver	Electronically within the Clearinghouse, for each full query for individual driver	<p><b>Consent refused</b></p> <ul style="list-style-type: none"> <li>• Employer notified of refused consent</li> <li>• Query cannot be conducted</li> <li>• Driver cannot perform/ removed from safety-sensitive functions</li> </ul> <p><b>Consent provided</b></p> <ul style="list-style-type: none"> <li>• Query conducted</li> <li>• Full violation and/or RTD details released, if any</li> </ul>	<p><b>Prohibited</b></p> <ul style="list-style-type: none"> <li>• If driver has a violation and no negative RTD test result, driver is removed from safety-sensitive functions</li> </ul> <p><b>Not Prohibited</b></p> <ul style="list-style-type: none"> <li>• If a driver has no violations, or a violation <b>and</b> a negative RTD test result, no action required</li> </ul>	
	OR				Limited query returned records found for queried driver
	OR				Ad hoc/periodic check on driver

The following are useful links to guide you thru the process and answer many questions. Before you can conduct queries or report drug and alcohol program violations in the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse, you must complete the registration process. Once registered, you can designate a consortium/third-party administrator (drug testing company) to access the Clearinghouse on your behalf.

1. Employer Registration Instructions - [Registration Instructions - Employers](#)
2. Queries and Consent Forms [Query and Consent Factsheet](#)
3. Purchasing Credits [Query-Purchasing Credits](#)
4. Consent Form for Limited Query - [Limited Query Consent](#)
5. Safety Record Performance – Previous Employer - [Record Requests](#)
6. Clearinghouse Questions - [Frequently Asked Questions - Drug and Alcohol Clearinghouse](#)
7. Consent Form for Full Query - [Full Query Consent](#)

**Resources for Employees:**

1. Employee Registration Instructions - [Registration - Drivers Instructions](#)
2. Queries and Consent Forms - [Query and Consent Factsheet](#)
3. Clearinghouse Questions - [Frequently Asked Questions - Drug and Alcohol Clearinghouse](#)