

## **FMCSA Clearinghouse Registration Is Now Open; Clearinghouse Goes Live on January 6, 2020**

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The U.S. Department of Transportation's Federal Motor Carrier Safety Administration announced on October 1, 2019 that Clearinghouse registration is now open. The FMCSA Clearinghouse is an electronic database that will contain information about commercial motor vehicle drivers' drug and alcohol program violations. The Clearinghouse will become operational on January 6, 2020, and FMCSA-regulated employers must be ready to comply with the Clearinghouse requirements on that date. Authorized users may now visit <https://clearinghouse.fmcsa.dot.gov/register> to create a user account and become familiar with the site.

The Clearinghouse rule requires FMCSA-regulated employers, Medical Review Officers, Substance Abuse Professionals, consortia/third-party administrators and other service agents to report to the Clearinghouse information related to violations of FMCSA's drug and alcohol testing regulations by current and prospective employees. Beginning on January 6, 2020, FMCSA-regulated employers must be prepared to do the following:

### **Queries of New Hires/Transfers:**

Employers must query the Clearinghouse before allowing a newly-hired commercial motor vehicle driver (or current employee who transfers into such a position) to begin operating a commercial motor vehicle. Drivers must sign a consent form allowing the employer to do so.

### **Annual Queries of Current Employees.**

Employers must query the Clearinghouse at least once per year for each driver they currently employ. Drivers must sign a consent form allowing the employer to do so. The employer must maintain records of all queries and information obtained in response to the query, for a period of three years. (As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement).

### **Reporting of Drug and Alcohol Program Violations.**

Employers must report drivers' drug and alcohol program violations (listed below) to the

Clearinghouse within three business days after the employer learns of the information.

Employers must prohibit drivers who have violated FMCSA's drug and alcohol program regulations from performing safety-sensitive duties unless the driver has complied with the return-to-duty process set forth at 49 CFR Part 40, Subpart O.

### **Revise Drug and Alcohol Testing Policies.**

In addition to registering with the Clearinghouse, FMCSA regulations require employers to add language to their FMCSA drug and alcohol testing policies to notify drivers and driver applicants that the following information will be reported to the Clearinghouse:

- 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 a drug or alcohol test;
- An employer's report of actual knowledge, as defined at 49 CFR § 382.107;
- On duty alcohol use pursuant to 49 CFR § 382.205;
- Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- Alcohol use following an accident pursuant to 49 CFR § 382.209;
- Drug use pursuant to 49 CFR § 382.213;
- A SAP's report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and,
- An employer's report of completion of follow-up testing.

Employers who do not comply with the FMCSA Clearinghouse requirements are subject to the civil and/or criminal penalties set forth at 49 U.S.C. 521(b)(2)(C) (*i.e.*, civil penalties not to exceed \$2,500 for each offense).

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