

DRIVERFACTS



FMCSA D&A CLEARINGHOUSE Answers for Carriers

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Answers for Carriers

Clearing the air on the Clearinghouse.

DriverFacts is dedicated to helping you achieve compliance. With the new mandated Drug & Alcohol Clearinghouse, concerns about meeting compliance measures have crept up for some carriers. However, with DriverFacts, there's nothing to worry about. **We'll be with you every step of the way** - from the beginning of implementation to the daily tasks of this new regulation.

Disclaimer: The following information does not constitute legal advice. We recommend that you consult your legal counsel to ensure your company's compliance.





What is the Clearinghouse and how will it affect me as a carrier?

The Clearinghouse is the new database mandated by the FMCSA that will hold information on drivers with commercial driver's licenses (CDL) and commercial learners permits (CLP) in order to ensure that drivers who commit a drug or alcohol violation while performing safety sensitive functions regulated by the FMCSA, or who attempt to find work with another employer*, do not perform safety-sensitive functions until completing the return-to-duty (RTD) process. **The Clearinghouse holds drug and alcohol violations as well as information on a completed return-to-duty status.** Carriers must be registered to utilize the Clearinghouse. The Clearinghouse began on January 6, 2020.

What are the benefits of the Clearinghouse?

Just like DriverFacts, the goal of the Clearinghouse is to make our roads safer by creating a more manageable, unified database for the trucking industry. **The objective is to clarify communication across the board and avoid drivers being able to conceal violations by simply moving jurisdictions or switching jobs.** Violation records in the Clearinghouse are attached to a driver's CDL numbers, regardless of how many times he or she switches jobs or states.

As a carrier, how can we use the Clearinghouse?

Carriers can use the Clearinghouse to **report violation information** and also request D&A violation information for drivers to satisfy 49 CFR Part 382 subpart B. Social Security Numbers will not be used to access drivers. **CDL numbers, issuing state, DOB and name will connect the driver in the database.** Carriers are also required to query the Clearinghouse annually for each driver that they employ in order to stay on top of possible violations where the driver may have taken a pre-employment test at another carrier and failed. There are two query types – a limited and a full query. A limited query is required annually and indicates if there is any information on a driver in the system. A full query must then be performed in order to receive the details of the information on the driver.

LIMITED

- Returns yes/no if information on the driver exists in the system
- May use for annual queries
- Written consent valid for lifetime of employment at carrier*
*or per legal advise
- Results should be immediate
- If “hit,” must pull Full query within 24 hours

FULL

- D&A violations details
- Must use for pre-employment
- Must request if Limited returns “hit”
- Electronic consent with each query
- FMCSA will notify carrier when driver issues consent
- Results only after driver consents



What information is in the Clearinghouse?

The Clearinghouse holds DOT drug and alcohol violations as stated in subpart B of 49 CFR Part 382. This includes positive test results, refusals and when a driver completes the return-to-duty (RTD) process and follow-up testing plan. **Non-DOT test results will not be included in the Clearinghouse.** Only DOT drug and alcohol violations that have occurred on or after January 6, 2020 are in the Clearinghouse. The FMCSA will notify carriers if previously accessed pre-employment full query information has been corrected or updated within 30 days of the request. Carriers do not have open access to driver data. Driver information is still protected under the Privacy Act and the Fair Credit Reporting Act.

Per §382.705(b), employers must report:

Alcohol confirmation
test result with
alcohol concentration
of .04 or greater

**Actual knowledge as
defined in § 382.107**

CDL driver's refusal
to submit a (DOT)
test for drug or
alcohol use

The negative RTD
test results

Date the driver
successfully
completed all follow
up tests as ordered
by the SAP

What must be reported for Actual Knowledge?

1. Driver's name, date of birth, commercial driver's license (CDL) number and state
2. Employer name, address, and USDOT number
3. Date the employer obtained actual knowledge
4. Witnesses, if any, including contact information
5. Description of the violation
6. A certificate of service or other evidence showing that the employer provided the employee with all information reported
7. Evidence supporting each fact alleged in the description of the violation, which may include, but is not limited to:
 - a. affidavits,
 - b. photographs,
 - c. video or audio recordings,
 - d. employee statements
(other than admissions pursuant to §382.121),
 - e. correspondence,
 - f. or other documentation

What information does a carrier need to report a violation to the Clearinghouse?

1. Name, CDL, State, Date of Birth
2. Supporting documentation for reporting actual knowledge of on-duty use or refusal to test.
3. Employer must include "a certificate of service or other evidence showing that the employer provided the employee with all information reported."



What must an MRO report?

According to the FMCSA, the date that the MRO verified the positive is what should be reported as the positive date.

Violations can also be reported without the driver being registered in the Clearinghouse.

Within two business days of making a determination or verification of a DOT-approved drug test, an MRO must report:

Verified positive, adulterated or substituted controlled substances test results

Refusal-to-test determination

If an MRO changes a verified drug test:

The MRO must submit that change to the Clearinghouse within one business day of making the change in the reported results.

How much will it cost?

The Clearinghouse pricing only affects carriers. The only costs involved is the fee for querying the Clearinghouse – carriers are charged \$1.25 for each full or limited query. Carriers can purchase individual bundle plans ranging from a 1-query to 7,500 queries that do not expire, or purchase an unlimited plan at \$24,500 – the equivalent to 19,600 queries – which expire after 12 months.

A bundle must be purchased by the carrier. The assigned C/TPA may perform the search on behalf of the carrier. C/TPAs cannot purchase queries in the Clearinghouse. If a Limited query returns a hit there is no additional charge to pull a full query.

Individual Query Plan

Flat per query rate

\$1.25

Flat rate for limited and full queries
Bundles available to purchase
Individual queries never expire
Can purchase queries at any time

Unlimited Query Plan

Single annual payment

\$24,500

Expires 12 months after date of purchase
Worth the same as buying 19,600 individual queries
Not necessary for smaller carriers



How does consent work for drivers?

Drivers must consent to the release of their information. Carriers must provide a limited consent form for drivers to give general consent for limited queries. Limited consent can last multiple years and a limited or annual query can be performed multiple times in a year as long as the consent clarifies the detail.

For full queries, carriers must receive electronic consent from the driver through the Clearinghouse. This is done electronically through the Clearinghouse. There is a **24 hour window** for a driver to consent to a full query. The window begins as soon as the carrier receives notification that the driver has information in the Clearinghouse.

The 24 hour window is significant - if the result comes back on Friday afternoon at 4:30 PM, the driver must consent by Saturday at 4:29 PM otherwise he/she will have to be removed from safety sensitive functions.



As carriers, how do we adjust for this new system?

1. We highly recommend signing up for live updates on the Clearinghouse [here](#). Signing up for the FMCSA's Clearinghouse mailing list will give you notifications any time there is new information posted about this database.
2. Authorize your release with your legal team
3. Receive consent from current drivers for release of information
4. Assign roles in the Clearinghouse
5. Train staff on new requirements and expectations
6. Implement your new pre-employment procedure to get applicants signed up on the Clearinghouse
7. Revise any company policy that needs to include these procedures

How can Third-Party Administrators help?

Maintain monitoring services for Annual or Ad Hoc queries

Report information

Setting up procedures for the Clearinghouse

Request information

Document and record storage and compliance

Assist with developing your Limited and Full query release



DONE BY





Answers for Carriers

As of the date of this white paper, the FMCSA does not have plans for an integration of any kind to report or request information, but DriverFacts has you covered. Be sure to select DriverFacts as your TPA.

We are dedicated to being your representative third-party for reporting and querying information. We have worked hard to ensure that your paperwork load is lighter than ever – we will ensure the same with the Clearinghouse.

Call us to schedule a free consultation to set up your program.