

# Clearinghouse Guidance

## Q&A

Are CDL drivers required to register for the Clearinghouse? FMCSA-D&A-CLEAR-382.703-FAQ003

### Guidance:

Drivers are not required to register for the Clearinghouse. However, a driver will need to be registered to provide electronic consent in the Clearinghouse if a prospective or current employer needs to conduct a full query of the driver's Clearinghouse record — this includes all pre-employment queries. See 49 CFR 382.703(d).

A driver must also be registered to electronically view the information in his or her own Clearinghouse record. See 49 CFR 382.709.

### **§382.709 Drivers' access to information in the Clearinghouse.**

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

Registered drivers will have their Clearinghouse accounts and contact preferences set up, allowing them to quickly respond to query requests from employers. Registration is available at <https://clearinghouse.fmcsa.dot.gov/register>.

## Q&A

What is the timeframe in which an employer must submit a report of an employee's drug and alcohol program violation to the Clearinghouse?

### Guidance:

Employers are required to report a drug and alcohol program violation by the close of the third business day following the date on which the employer obtained the information. See 49 CFR 382.705(b)(1).

## **Q&A**

What records should employers maintain in a driver qualification file to meet the requirements of section § 382.701(e)?

### **Guidance:**

As of January 6, 2020, employers are required to conduct both electronic queries in the Clearinghouse and traditional manual inquiries with previous employers to meet the three-year timeframe required by 49 CFR § 391.23. This will be required until January 6, 2023, at which point a query of the Clearinghouse will satisfy this requirement.

The Clearinghouse retains a record of every query an employer conducts. This includes any queries conducted by a designated consortium/third-party administrator (C/TPA) on their behalf. Employers may choose to maintain separate copies in addition to these Clearinghouse records.

## **Q&A**

How long will CDL driver violation records be available for release to employers from the Clearinghouse?

### **Guidance:**

Driver violation records will be 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 (RTD) process and follow-up testing plan, whichever is later. See 49 CFR 382.719.

## **Q&A**

Does an owner-operator have to conduct queries on himself/herself?

### **Guidance:**

Yes. Anyone who employs a commercial driver's license (CDL) holder must query the Clearinghouse (§ 382.701). This requirement includes owner-operators—that is, any employer that employs himself or herself as a CDL driver, typically a single-driver operation. Owner-operators must comply with all Clearinghouse requirements imposed on both employers and employees. (§ 382.103(b)). An owner-operator's designated consortium/third-party administrator (C/TPA) may conduct queries on the owner-operator's behalf. However, the C/TPA is responsible for reporting drug and alcohol program violations to the Clearinghouse for the owner-operator in accordance with 49 CFR 382.705(b)(6).

## Q&A

How do owner-operators meet their Clearinghouse obligations?

### Guidance:

An owner-operator (an employer who employs himself or herself as a CDL driver, typically a single-driver operation) is subject to the requirements pertaining to employers as well as those pertaining to drivers. Under the Clearinghouse final rule, an employer who employs himself or herself as a CDL driver must designate a consortium/third-party administrator (C/TPA) to comply with the employer's Clearinghouse reporting requirements (§ 382.705(b)(6)).

## Q&A

Can an employer or medical review officer (MRO) enter a drug and alcohol program violation in a CDL driver's Clearinghouse record if the driver is not registered for the Clearinghouse?

### Guidance:

Yes. When a violation is entered, the Clearinghouse associates it with a driver's commercial driver's license (CDL) information. This will be recorded even if the driver has not registered for the Clearinghouse. When an employer queries a driver's information in the Clearinghouse (with the appropriate consent), they will enter the driver's CDL information to verify if any violations are associated with that driver's CDL.

A driver is required to enter their CDL information during their Clearinghouse registration. This allows them to view any violation or return-to-duty (RTD) information associated with their CDL.

## Q&A

How will CDL drivers be notified when information about them is added to the Clearinghouse?

### Guidance

The Clearinghouse will notify the driver using the method indicated during the driver's Clearinghouse registration—either mail or email—any time information about the driver is added, revised, or removed.

***If the driver has not yet registered for the Clearinghouse, these notifications will be sent by mail using the address associated with the driver's commercial driver's license (CDL). See 49 CFR 382.707.***