

Drug & Alcohol Testing Policy Addendum Employee Education Material

The addendum and educational material is for employers and employees regulated by the Federal Motor Carrier Safety Administration (FMCSA).

The COMPANY is providing this information regarding the Commercial Driver's License Drug and Alcohol Clearinghouse. The Clearinghouse rule takes effect January 6, 2020. All queries and reporting will be for information as of the effective date and not any information prior to the effective date of January 6, 2020.

The COMPANY has a requirement to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Clearinghouse Final Rule issued December 5, 2016; and to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

Information about a driver reported to the Clearinghouse will include the driver's name, date of birth, and commercial driver's license (CDL) number and State of issuance. Other information about specific tests and regarding the return to duty process will be reported. The information reported will be available when queries are made by existing and hiring employers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel.

The Clearinghouse will notify a 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). There is a petition process for drivers to request corrections to their Clearinghouse record (§ 382.717). Drivers may challenge only the accuracy of information reported, not the accuracy or validity of test results or refusals.

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.

Only DOT drug and alcohol test results authorized by the Federal Motor Carrier Safety Administration (FMCSA) are reported to the Clearinghouse. The identifying number for the driver will always be the CDL driver's license number and the state of issue.

Do Drivers Need to Register in the Clearinghouse?

Yes and no. Clearinghouse registration is not a required step for drivers but it is highly recommended. If a driver is never required to provide consent to a pre-employment or other full query, and never incurs a drug and alcohol program violation, then the driver will not need to register for the Clearinghouse.

However, a driver will need to be registered to provide electronic consent in the Clearinghouse for a prospective or current employer to conduct a full query of his or her driver record. A full query releases detailed violation information contained in a driver's Clearinghouse record to the querying employer. Beginning January 6, 2020, a full query will be required during a pre-employment driver investigation for a commercial driver's license (CDL) holder who will perform safety-sensitive functions, including operating a commercial motor vehicle (CMV). A driver must also be registered to view the information electronically in his or her own Clearinghouse record.

This information would include any violation information available in the Clearinghouse, along with the status of their return-to-duty (RTD) process, if applicable.

Once registered a driver will be able to perform the following in the Clearinghouse:

- View their own driver record electronically.
- Provide consent to release detailed violation information to a current or prospective employer.
- Identify a substance abuse professional (SAP) so the SAP may enter specific information regarding the driver's return-to-duty (RTD) activities.

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What Driver Information does the MRO report into the Clearinghouse?

For positive drug test results and MRO determined refusals to test, the Medical Review Officer (MRO) will report information as follows to the Clearinghouse.

- Reason for the test;
- Federal Drug Testing Chain of Custody Form (CCF) specimen ID number;
- Driver's name, date of birth, and commercial driver's license (CDL) number and State of issuance;
- Employer's name, address, and USDOT Number, if applicable;
- Date of the test and date of the verified result;
- Test result;
- In the case of an adulterated specimen, the adulterant/reason must also be provided.

If an MRO changes a verified drug test, the MRO will submit that change to the Clearinghouse within one business day of making the change in the reported results.

What Driver Information does the Employer report into the Clearinghouse?

- An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- A CDL driver's refusal to submit to a Department of Transportation (DOT) test for drug or alcohol use as determined by the employer;
- Actual knowledge of drug or alcohol use while working, as defined in § 382.107;
 - Actual knowledge for the purpose of subpart B of this part, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in §382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under §382.307.

As used in this section, “traffic citation” means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.

- Negative Return to Duty test results;
- The date the driver successfully completed all follow-up tests as ordered by the substance abuse professional (SAP).

What Driver Information does the SAP report into the Clearinghouse?

The Substance Abuse Professional (SAP) reports information on a driver who has entered the SAP program. The information reported includes the date of completion of the initial assessment, and the date the SAP determines that the driver is eligible for RTD testing.

Queries and Consent

An employer must conduct a pre-employment query for a prospective employee in the Clearinghouse prior to hiring the employee for a position requiring him or her to perform safety-sensitive functions, such as operating a commercial motor vehicle (CMV). The employer must also query the Clearinghouse annually for all currently employed CDL drivers.

The Clearinghouse rule states, “No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver’s written or electronic consent.” The type of consent required depends on the type of query. For a limited query, a general consent is required. For a full query, the driver must provide specific consent to the employer prior to each full query. This consent must be provided electronically within the Clearinghouse. For all pre-employment a full query is required.

Any employer accessing the Clearinghouse with a query will have access to any violation information that has been reported for a driver by any employer.

How is Driver Information Protected in the Clearinghouse?

The Federal Motor Carrier Safety Administration (FMCSA) takes the protection of personal information very seriously. The Clearinghouse will meet all relevant Federal security standards and FMCSA will verify the effectiveness of the security protections on a regular basis.

- Clearinghouse information will not be available to the public; only authorized users will be able to register and access the Clearinghouse for designated purposes.
- The Clearinghouse will require authentication, via a login.gov username and password, to access records. Login.gov, a shared service which offers secure online access to participating government systems, also requires the completion of a user verification process to ensure the proper person is using those credentials.
- Drivers registered in the Clearinghouse will be able to access their Clearinghouse records at any time, and at no cost to them. Drivers will only be able to access their own information, not information about other drivers.
- FMCSA will only share detailed drug and alcohol violation information with a prospective or current employer, and/or their designated consortium/third-party administrator (C/TPA), when an employer or designated C/TPA has requested and received specific consent from the driver. Drivers will be able to see the information that would be released to an employer before consenting to the release.
- Driver information will only be used by FMCSA and other enforcement agencies as required to enforce drug and alcohol testing regulations.

If you have questions about the Clearinghouse, please contact the COMPANY Designated Employer Representative (DER).

DOT FMCSA Clearinghouse

MGE Underground, Inc.:

Employee Education Material

Employee Name: _____ **Title:** _____
(Please Print) (Please Print)

I acknowledge I have received and read the Employee Education Material regarding the DOT FMCSA Clearinghouse requirements, and have been notified that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020

Date: _____ **Employee Signature:** _____

Company Witness: *Morgan Bridges*
