

Drug & Alcohol Clearinghouse

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are recorded

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MESSAGE FROM THE EDITOR

Help your drivers with their Clearinghouse accounts

Associates at J. J. Keller recently had the opportunity to attend a presentation and question-and-answer session with two representatives from the Federal Motor Carrier Safety Administration (FMCSA). One of the main focuses of the presentation was the Drug and Alcohol Clearinghouse.



At the presentation, we learned how to fix some common issues that drivers encounter when trying to access the Clearinghouse. Common problems and their solutions include being:

- **Registered for the incorrect role.** If the driver accidentally registered as an employer instead of a driver, the driver must contact the Federal Motor Carrier Safety Association (FMCSA) to delete the account and re-register as a driver.
- **Unable to validate a CDL.** Make sure the CDL information was entered correctly. Specifically:
 - Remove spaces and hyphens from the CDL number,
 - Include leading zeros,
 - Enter the correct date of birth, and
 - Allow the issuing state 10 business days to update the driver's record. For Mexican licenses, enter MX for both country and state.
- **Unable to grant an employer consent to perform a query.** Make sure that the CDL has been entered and validated in the Clearinghouse and check to make sure that the employer has submitted the query request.
- **Unable to view violation information.** Make sure that the CDL has been entered and validated in the Clearinghouse and verify that the medical review officer (MRO) or employer reported the violation.
- **Unable to designate a substance abuse professional (SAP).** Verify that the MRO or employer reported the violation and make sure that the CDL has been entered and validated in the Clearinghouse. Also verify that the SAP is registered in the Clearinghouse and that the SAP's name is entered correctly.

Keep an eye out for more information that we learned from our time with the FMCSA representatives in upcoming newsletters, videos, and news. ♦



Jen Loomis

Jen Loomis joined J. J. Keller in 2021 on the Content & Consulting Services Transportation Team. As an Associate Editor, Jen edits a variety of products including the *Transportation Safety Training Advisor*, *Driver Report*, and *Driver Training Awareness Program* newsletters. She also provides regulatory support in the area of DOT drug and alcohol testing.



TRAINING BLUEPRINT — DRUG & ALCOHOL CLEARINGHOUSE

The Clearinghouse is an online database that houses information on all CDL drivers' DOT drug and alcohol testing violations under Part 382. It also holds the records of whether a driver has gone through the substance abuse professional's (SAP's) assessment and prescribed treatment program, whether the driver has had a negative DOT return-to-duty test, and whether the driver has completed all follow-up tests. Drivers who operate vehicles that require a CDL must be in compliance with Clearinghouse rules.

Do drivers need to register for a Clearinghouse account?

Not all drivers need an account, but a Clearinghouse account is required to:

- Give consent for a current or prospective employer to run full query,
- Designate an SAP in order to begin the SAP evaluation and return-to-duty process, and
- Review their own record in the Clearinghouse and check the information for accuracy.

TIP: Help drivers sign up for a Clearinghouse account during a training session so that you won't spend time waiting later in the event that you need a driver to grant you consent to conduct a query.

What types of violations are reported to the Clearinghouse?

Employers, medical review officers (MROs), and SAPs are all responsible for submitting information to the Clearinghouse. Violations that will be submitted include:

- Any positive, adulterated, or substituted drug test;
- Any confirmed DOT alcohol test result of 0.04 or higher;



- Any "actual knowledge" that a driver violated the DOT drug or alcohol rules; and
- Any refusal to take a DOT-required drug or alcohol test.

TIP: Review the procedures that will be used at the collection site so your drivers know what to expect in the event they are required to take a drug or alcohol test.

What are the consequences of a DOT drug or alcohol violation?

A driver who commits a drug or alcohol violation will be immediately pulled from performing safety-sensitive functions and provided with a list of SAPs. There are several things that must happen before the driver can resume performing safety-sensitive functions, including:

- Being evaluated by an SAP,
- Completing the treatment and/or education prescribed by the SAP,
- Being re-evaluated by the SAP, and
- Receiving a negative result on a return-to-duty drug and/or alcohol test.

A driver can resume performing safety-sensitive functions after passing the return-to-duty test. However, the driver must still complete the follow-up testing program that is prescribed by the SAP. At a minimum, the driver will need to complete six follow-up tests over 12 months, but the SAP can require follow-up testing for up to five years.

How long does a violation stay in the Clearinghouse?

In order for a driver's drug or alcohol violation to be removed from the Clearinghouse, all of the following must take place:

- SAP reports assessment and treatment successful,
- Employer reports negative return-to-duty test,
- Current employer reports completion of follow-up tests, and
- Five years have passed since the original violation.

TIP: The Federal Motor Carrier Safety Regulations (FMCSRs) require motor carriers to provide drivers with a copy of the company's drug and alcohol policy. Though a review of the policy is not required, this would be a good time to review your company's policy and answer any questions that drivers have. ♦

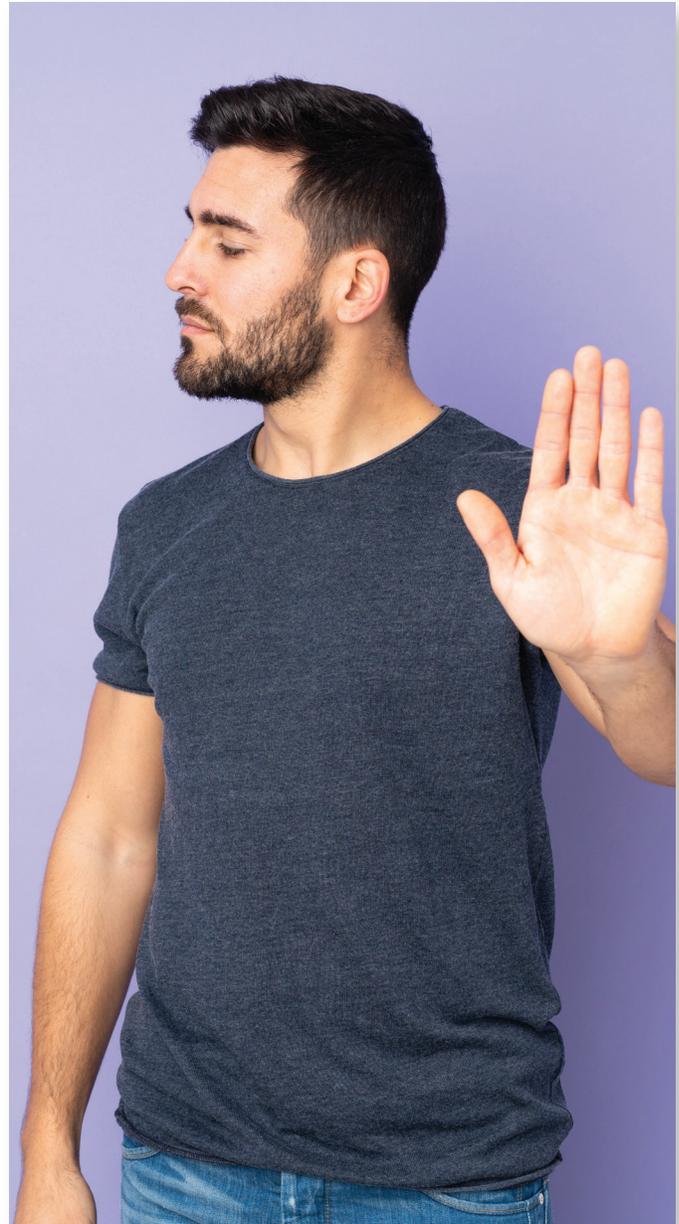


TRAINING HANDOUT — DRUG & ALCOHOL CLEARINGHOUSE

What is a refusal?

Drivers who are required to comply with Part 382 may not refuse to take a DOT drug or alcohol test. Refusals are reported to the Clearinghouse by either the motor carrier or the medical review officer (MRO) and include all of the following:

- Failing to appear or showing up late for the test (not including pre-employment tests).
- Refusing to provide a breath or urine specimen.
- Failing to stay at the testing site until the testing process is done (except in the case of a pre-employment test where the driver leaves the testing site before the testing process commences).
- Failing to submit enough saliva or breath if a physician determines that there is no medical explanation for a driver's failure to provide enough breath or urine.
- Failing to cooperate with any part of the testing process.
- Failing to allow observation or monitoring of a urine collection, when required.
- Failing or declining to take an additional drug test as directed by the employer or collector.
- Admitting to adulterating or substituting the urine specimen.



A refusal to test carries the same consequences as a failed drug or alcohol test: removal from safety-sensitive functions and completion of the SAP evaluation and return-to-duty process and follow-up testing. ♦



TEST YOUR KNOWLEDGE — DRUG & ALCOHOL CLEARINGHOUSE

Directions: Read each statement or question carefully and mark the best answer.

1. Drivers who fail to appear for a drug test can make up the test later in the week.
 - A. True
 - B. False
2. If a physician determines that a driver's failure to produce enough urine for a drug test was caused by a medical condition, the test will not count as a refusal.
 - A. True
 - B. False
3. If a driver is directed to retake a drug test by the carrier, and the driver refuses, it will be reported to the Clearinghouse as a refusal to test.
 - A. True
 - B. False
4. Which of the following does not count as a refusal to test?
 - A. Failing to show up for a pre-employment drug test
 - B. Refusing to follow directions at the collection center
 - C. Leaving the testing site without completing the testing process
 - D. A and B
5. Which of the following report(s) refusals to the Clearinghouse?
 - A. Motor carriers
 - B. Substance abuse professionals
 - C. Medical review officers
 - D. A and C

NAME: _____ DATE: _____



FMCSA begins accepting young driver pilot program applications

Motor carriers are now able to register to participate in a pilot program that will allow 18- to 20-year-old drivers to operate commercial motor vehicles (CMVs) that require a commercial driver's license (CDL) in interstate commerce.

On Tuesday, July 26, 2022, the Federal Motor Carrier Safety Administration (FMCSA) began accepting applications to its Safe Driver Apprenticeship Pilot Program.



The pilot program is limited to 3,000 apprentices. It is expected that approximately 1,000 motor carriers will participate in the program. Motor carriers that participate in the program must:

- Complete an application with FMCSA;
- Register an apprenticeship program with the U.S. Department of Labor (DOL);
- Submit monthly data on an apprentice's driver activity, safety outcomes, and any additional supporting information; and
- Verify that proposed apprentices meet all requirements to participate.

Carriers participating in the program will be publicly identified on FMCSA's website.

The program's requirements include:

- A 120-hour probationary period, including at least 80 hours spent driving, followed by a 280-hour probationary period of on-duty time, including at least 160 hours of driving.
- The apprentice must show competency in a dozen maneuvers and skills, including backing, pretrip inspections, fueling, and coupling and uncoupling.
- The apprentice may only drive a vehicle with:
 - An automatic or semi-automatic transmission and active braking collision mitigation system,
 - A forward and rearward facing video event capture system, and
 - A governed speed of 65 mph.
- An apprentice must be accompanied in the passenger seat of the CMV by an experienced driver. The experienced driver must be at least 26-years old, have a minimum of at least five years of experience, and not have any violations in the last two years.

To qualify for participation, the motor carrier must meet specific standards, including:

- Having proper operating authority, if required, and registration;
- Having at least the minimum levels of financial responsibility required by the FMCSRs;
- Not being a high or moderate risk motor carrier as defined by FMCSA;
- Not having a conditional or unsatisfactory safety rating;
- Not having any open enforcement actions (Imminent Hazard, Operations Out-of-Service (OOS) Orders) in the previous six years;
- Not having a crash rate above the national average; and
- Not having a driver or vehicle OOS rate above the national average.

Approval for participation in the pilot program will also be dependent on the motor carrier's agreement to comply with all pilot program procedures, including the monthly submission of data.

FMCSA will monitor motor carrier and driver performance throughout the pilot program to ensure safety. Motor carriers may be disqualified from the pilot program at any time for various reasons, including not meeting the criteria listed above. ♦

PHMSA finalizes long-awaited HM-215P rule

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is finalizing its latest international harmonization rule, HM-215P. The rule is expected in the July 26, 2022, Federal Register.

The changes in this rule will affect almost all areas of the hazardous materials regulations. Some of the major changes include:

- Incorporating references to international regulations.
- Removing regulatory hurdles for the international transport of vaccines and other medical materials.
- Authorizing highway and rail transportation of a hazardous material within the U.S. in accordance with temporary certificate issued by Transport Canada.
- Updating the Hazardous Materials Table by adding, revising, or removing certain proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, bulk packaging requirements, and passenger and cargo aircraft maximum quantity limits.
- Adding exemptions for Data Loggers powered by lithium batteries. This would clarify regulations applicable to data loggers and cargo tracking devices powered by lithium batteries that are attached to or contained in, and in use or intended for use during transport.
- Removing the minimum wall thickness requirements for metal IBCs that have a capacity of 1500 liters or less.
- Making miscellaneous revisions for lithium batteries, which include, minimum size markings and modification of stowage requirements for lithium batteries, including those offered as damaged/defective or for disposal/recycling.
- Amending provisions pertaining to the addition of technical names to the shipping description when transporting hazardous materials that contain marine pollutants.

The rule will be effective August 25, 2022, with delayed compliance until July 26, 2023. ♦



Next Month's Topic: Improving fuel mileage

With fuel prices soaring, it's a great time for carriers and drivers to examine their fuel usage habits and strive to be more energy efficient, which can also have added safety benefits.

Expert Help: Question of the Month

Question: We have a CDL driver who admitted to an HR manager that she has a problem with alcohol and is seeking treatment. Does this count as actual knowledge that must be reported to the Clearinghouse?

Answer: There is an exception in §382.121 that allows drivers to notify employers that they have an alcohol or substance abuse problem without being required to go through the Part 40 substance abuse professional (SAP) return-to-duty process. All of the criteria in §382.121 must be met in order to apply the exception, however. One of the criteria is that the employer must have a voluntary employee admission policy. If the company does not have a voluntary employee admission policy, then the exception does not apply. In that case, what the driver actually admitted to the HR manager will determine next steps. If the driver simply admitted to getting treatment for an alcohol problem, then that does not qualify as a violation of Part 382. However, if the driver admitted to using alcohol within 4 hours of performing or while performing a safety-sensitive function, including driving, then that constitutes actual knowledge and the employer must pull the driver from performing all safety-sensitive duties, provide the driver with a list of SAPs, and report the violation to the Clearinghouse. ♦



Got a question?

Your subscription includes online access to our subject matter experts! Visit the Compliance Library at JKellerLibrary.com and click on  Expert Help to take advantage of this great feature.

Answers to quiz on page 5:

1.) B 2.) A 3.) A 4.) A 5.) D

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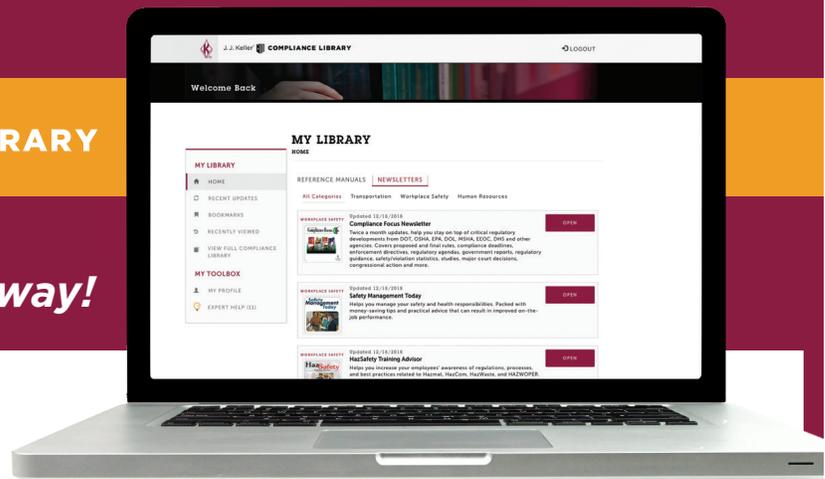
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