

DRUG & ALCOHOL CLEARINGHOUSE

FMCSA IT RULES OF BEHAVIOR: EMPLOYERS

As a non-government user of the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse, I understand that I am personally responsible for the use and any misuse of my system account and password. I also understand that by accessing a U.S. Government information system, I must comply with the following requirements:

1. The Drug and Alcohol Clearinghouse must be used only as authorized by Federal law.
2. The Drug and Alcohol Clearinghouse may not be used (i) for a purpose that violates any Federal law; (ii) for mass mailings of personal messages/statements; or (iii) to engage in any DOT- or FMCSA-discrediting activities, which may include seeking, transmitting, collecting, or storing defamatory, discriminatory, obscene, harassing, or intimidating messages or materials.
3. Persons registered with the Drug and Alcohol Clearinghouse, including, but not limited to, consortia/third party administrators and other service agents, must not misrepresent their relationship with FMCSA. Misrepresentation includes, but is not limited to, statements that a consortium/third party administrator or other service agent is approved or endorsed by FMCSA.
4. Persons registered with the Drug and Alcohol Clearinghouse, including, but not limited to, consortia/third party administrators and other service agents, must not make misleading statements about Federal statutory or regulatory requirements.
5. FMCSA reserves the right to monitor the activity of any machine connected to its infrastructure.
6. The Drug and Alcohol Clearinghouse is the property of the Federal Government and FMCSA owns the data stored in this system.
7. Employers and service agents may not divulge non-public information obtained from the Drug and Alcohol Clearinghouse outside of authorized channels without the express consent of the individual to whom the information pertains and, in accordance with 49 CFR 382.723, the information must be used only for the purpose of determining whether a prohibition applies to a driver performing a safety-sensitive function.
8. Any activity that violates Federal laws for information protection (e.g., hacking, spamming) is prohibited.
9. Drug and Alcohol Clearinghouse accounts are linked to your login.gov profile **solely for the use of the individual for whom they were created**. Your login.gov passwords or any other authentication mechanisms **should never** be shared or stored in **printed form** in any place accessible. If stored **digitally**, a password should not be stored in a clear-text or a readable format. You may store your login.gov “just in case” information in printed or digital form.
10. If the user is a consortium/third-party administrator or other service agent creating or maintaining a login.gov account on behalf of a motor carrier or driver, the motor carrier’s or driver’s login.gov information must be made available to the motor carrier or driver when created and upon any request by the motor carrier or driver. Service agents must not create a Clearinghouse or login.gov account or change passwords or login credentials without the express consent of the driver or motor carrier.
11. Service agents, employers, or other third parties must not access another user’s Clearinghouse account for any reason without first obtaining their specific written consent. For the purpose of these Terms and Conditions, “specific written consent” means a statement signed by the user that they agree to permit a particular, explicitly identified, person or organization to access to their Clearinghouse account, at a particular time, and for a particular reason. The user must

provide specific written consent each time another party accesses their Clearinghouse account. “Blanket consent” in which a user agrees to permit access to their Clearinghouse account is prohibited. A copy of the specific written consent must be provided to FMCSA immediately upon request.

12. The Drug and Alcohol Clearinghouse uses login.gov to authenticate your identity. Login.gov has password format requirements and a password expiration policy that must be followed. Login.gov passwords do not expire because login.gov uses multi-factor authentication. Multi-factor authentication expires every 30 days. See <https://www.login.gov/help/changing-settings/turn-off-two-factor-authentication/> for more information.
13. Users must protect all confidential/sensitive and private information from unauthorized disclosure.
14. I agree to accept any written communication from FMCSA relating to my participation in the Drug and Alcohol Clearinghouse by electronic mail at the email address(es) I provide to FMCSA. Such electronic communication shall be complete upon its transmission by FMCSA.
15. I understand that the following violates both these Terms and Conditions and Federal law. Federal law provides for punishment under Title 18 of the U.S. Code, including a fine and up to 10 years in prison for the first offense for anyone who:
 - a. Intentionally accesses a Government information system without authorization, or exceeds authorized access, and obtains information that requires protection against unauthorized disclosure.
 - b. Intentionally accesses a Government information system without authorization, or exceeds authorized access, and impacts the Government’s operation, including availability of that system.
 - c. Intentionally accesses a Government information system without authorization, or exceeds authorized access, and alters, damages, or destroys information therein.
 - d. Intentionally accesses a Government information system without authorization, or exceeds authorized access, and obtains anything of value.
 - e. **Prevents authorized use of a Government information system.**

Drug and Alcohol Clearinghouse Terms of Use

I am capable and willing to comply with the requirements under 49 CFR part 382, subpart G, Requirements and Procedures for Implementation of the Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse).

I agree to accept any written communication from FMCSA relating to the Clearinghouse by electronic mail at the email address(es) I provide to FMCSA or by physical letters sent via United States Postal Service, including any notice of proposed removal from the Clearinghouse and any information addressing my obligations as an authorized user of the Clearinghouse. Such communication shall be considered complete upon its transmission by FMCSA.

I understand that by utilizing the Clearinghouse, I am participating in covered transactions and am required to comply with the suspension and debarment regulations at 2 CFR part 180 and that I am required to comply with the regulations at 49 CFR part 382. I certify that I will comply with the information reporting, use, and disclosure requirements set forth in 49 CFR part 382. I agree that I will not access information in the Clearinghouse without authorization; share, distribute, publish, or otherwise release information unless specifically authorized by law; prevent authorized use of government information systems; and I will not report inaccurate or misleading information to the Clearinghouse. I understand that by submitting information to the Clearinghouse I am participating in covered transactions and that submitting false or misleading statements may subject me to administrative, civil, or criminal penalties, including prosecution under 18 U.S.C. § 1001 or government-wide suspension and debarment under 2 CFR part 180.

I agree that I will obtain the driver's written or electronic consent before querying the Clearinghouse to determine whether a record exists or to obtain any of the types of information identified in 49 C.F.R. § 382.703. I agree that I will only access and use information obtained from the Clearinghouse to determine whether there is a prohibition on a driver performing a safety-sensitive function in accordance with FMCSA regulations and will not divulge or permit other persons to divulge the information for any other purpose. I understand that violations of §382.723 are subject to criminal and civil penalties in accordance with applicable law, including those set forth at §382.507.

I accept the DOT Website Privacy Policy (see <https://www.transportation.gov/dot-website-privacy-policy>).

I understand that the following actions may result in revocation of my Clearinghouse registration under 49 CFR § 382.713.

1. Failure to comply with the FMCSA IT Rules of Behavior.
2. Failure to comply with the Clearinghouse Terms of Use.
3. Failure to comply with the Clearinghouse requirements in 49 CFR Part 382.
4. Failure to comply with an FMCSA request for copies of documents related to the Clearinghouse (e.g., copies of consent forms).
5. Failure to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in 49 CFR Part 40.
6. For Service Agents, failure to perform the duties prescribed under 49 CFR Parts 40 and 382, or being subject to a Public Interest Exclusion under 49 CFR Part 40, Subpart R.
7. Being under government-wide suspension or debarment under 2 CFR part 180.

I understand and accept the procedures governing Clearinghouse registration revocation set forth below.

Procedures for Revocation of Clearinghouse Registration

(a) *Notice of proposed revocation.* Except as provided by paragraph (b) below, FMCSA initiates a Clearinghouse registration revocation proceeding by serving a written notice of proposed revocation to the account holder stating the basis for the proposed revocation and the date the proposed revocation will become final if no reply to the notice of proposed revocation is received.

(1) *Reply to notice of proposed revocation.* The account holder must reply to the notice of proposed revocation no later than 14 days after the service date of the notice of proposed revocation. The reply must be in writing, identify any factual issues in dispute including any errors in proposing the revocation, and describe any corrective action taken. The reply must include documentation to support the account holder's description of the corrective action. The reply must be submitted electronically to Clearinghouse@dot.gov.

(2) *Failure to reply to notice of proposed revocation.* If the account holder fails to reply as required by paragraph (a) (1), the account holder's Clearinghouse registration will be revoked on the date specified in the notice of proposed revocation without any further notice.

(3) *FMCSA review of reply.*

(i) If FMCSA finds that the account holder has demonstrated that FMCSA erred in proposing the revocation.

(ii) If FMCSA finds that the account holder has not demonstrated that FMCSA erred in proposing the revocation, it will affirm the notice of proposed revocation and notify the account holder in writing of the determination. The notice will specify the effective date of the revocation.

(4) *FMCSA will review any corrective action submitted by the account holder.* FMCSA may conduct any investigations and request additional documentation necessary to ensure that the deficiencies identified as the basis for the proposed revocation have been corrected.

(i) If FMCSA determines that the account holder has corrected the deficiencies that formed the basis for the proposed revocation, it will notify the account holder in writing that it has terminated the proceeding.

(ii) If FMCSA determines that the account holder has not corrected the deficiencies that formed the basis for the proposed revocation, it will notify the account holder in writing and will identify the effective date of the revocation.

(5) At any time before the revocation of the Clearinghouse registration becomes effective, the account holder and FMCSA may resolve the matter by mutual agreement.

(b) *Immediate Revocation.* In cases of either willfulness or in which public health, interest, or safety requires, FMCSA may immediately revoke an account holder's Clearinghouse registration.

(1) FMCSA will serve written notice stating the basis for the immediate revocation.

(2) The provisions of paragraphs (a)(1)-(5) are not applicable to notices of immediate revocation.

(c) *Reinstatement of Clearinghouse Registration After Revocation.* No sooner than 30 days after the effective date of the Clearinghouse registration revocation, the account holder may apply to FMCSA to have the Clearinghouse registration reinstated.

(1) The account holder must demonstrate that the deficiencies that formed the basis for the revocation have been corrected.

(2) FMCSA may impose additional terms and conditions upon reinstatement of an account holder whose registration was revoked.

(3) FMCSA may deny reinstatement in cases where either willfulness or in which public health, interest, or safety formed the basis for the revocation.

(d) *Administrative Review.* An account holder whose Clearinghouse registration has been revoked under paragraphs (a) or (b) or whose request for reinstatement after revocation has been denied may request an administrative review of that decision within 30 days of the date the revocation was effective or the date the reinstatement was denied.

(1) The request must be submitted electronically to Clearinghouse@dot.gov and must state in the subject line of the email or at the top of the document: "Administrative Review of Drug and Alcohol Clearinghouse Registration Revocation."

(2) The account holder's request must explain the error they believe FMCSA committed and provide information and/or documents to support their argument.

(3) FMCSA may ask the account holder to submit additional information or attend a conference to discuss the Clearinghouse registration revocation or reinstatement denial. If the account holder does not provide the information requested, or does not attend the scheduled conference, FMCSA may dismiss the request for administrative review.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the account holder's request for review and will notify the account holder in writing of the decision. FMCSA's decision will constitute the final Agency action.

(e) *Judicial review.* Any appeal of a final agency action under paragraph (d) must be taken to an appropriate United States Court of Appeals under 28 U.S.C. chapter 158.

(f) *Computation of time.* In computing any time period set out in these procedures, the time computation begins with the day following the act, event, or default. The last day of the period is included unless it is a Saturday, Sunday, or legal Federal holiday in which case the time period will run to the end of the next day that is not a Saturday, Sunday, or legal Federal holiday. All Saturdays, Sundays, and legal Federal holidays except those falling on the last day of the period will be computed.

I affirm that all the information provided is true, and I accept the Clearinghouse Terms of Use set forth above, including the Clearinghouse Registration Revocation Procedures of my Clearinghouse registration under 49 CFR § 382.713.