DRUG & ALCOHOL CLEARINGHOUSE

Q&A Session for CDL Drivers

December 2020

Agenda

1 **OVERVIEW OF THE CLEARINGHOUSE**
About the Congressional mandate and what it means

2 **REGISTRATION**
Creating a Clearinghouse account

3 **QUERIES AND CONSENT REQUESTS**
Query and consent requirements in the Clearinghouse

4 **VIOLATIONS**
Which violations are reported to the Clearinghouse

5 **COMMON ISSUES**
Common issues users are experiencing

6 **NEXT STEPS & MORE INFORMATION**
How you can register, learn more, and get technical support

Overview of the Clearinghouse

The Clearinghouse Final Rule

- Mandated by Congress (MAP-21, Section 32402)
- Published December 5, 2016
- Established requirements for the Clearinghouse
- Implemented on **January 6, 2020**

Read the Clearinghouse final rule at:

www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse

The FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse

Record

Employers and **medical review officers** report violation information to the Clearinghouse (positive tests, refusals to test, actual knowledge)

Retain

Secure database retains the violation and CDL/CLP number

Includes driver's status in return-to-duty (RTD) process

Query

Employers and C/TPAs query the Clearinghouse for violation information, with driver consent

FMCSA uses data for enforcement purposes

State enforcement agencies will receive driver eligibility status (i.e., Prohibited/Not Prohibited)

Drivers can access only their own information

Increasing safety on our Nation's roadways

Real-time access to reported violation information for select registered users

Easier for employers to meet pre-employment investigation and reporting obligations

More difficult for drivers to conceal drug and alcohol violations from employers

More insight into employer compliance with drug and alcohol testing rules

Safer Roadways

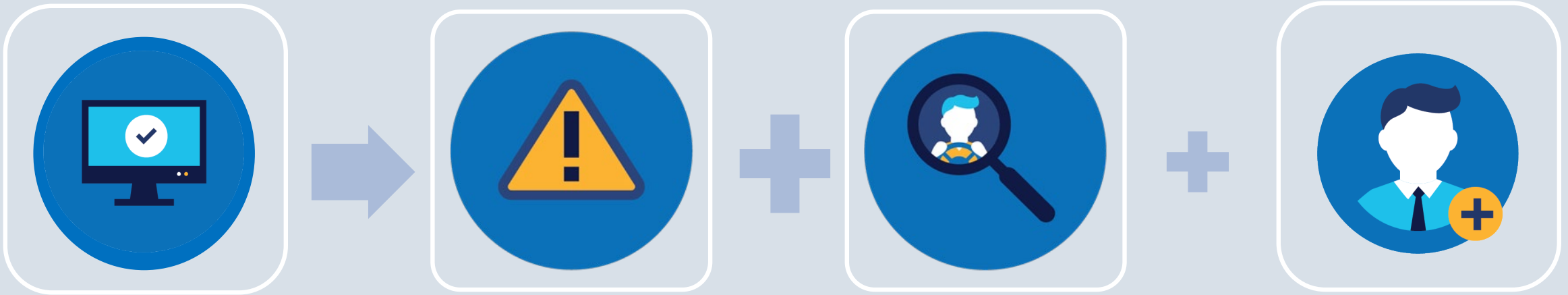
Am I covered by the Clearinghouse rule?

- All CDL drivers who operate CMVs on public roads and their employers and service agents. This includes, but is not limited to:
  - Interstate and intrastate motor carriers, including passenger carriers
  - School bus drivers
  - Construction equipment operators
  - Limousine drivers
  - Municipal vehicle drivers (e.g., waste management vehicles)
  - Federal and other organizations that employ drivers subject to FMCSA drug and alcohol testing regulations (e.g., Department of Defense, municipalities, school districts)
- Government entities are not required to obtain a USDOT Number under 49 CFR Part 390, however they *are* subject to the Controlled Substance and Alcohol Testing regulations in 49 CFR Part 382

Learn more about the specific actions each user can take at:

https://clearinghouse.fmcsa.dot.gov/Resource/Index/User-Roles

Employer Requirements



Register

- Link to your FMCSA Portal account (optional)

Record

- Report CDL driver drug and alcohol program violations
- Positive tests, test refusals, actual knowledge

Query

- Check if driver is prohibited from operating a CMV
- Pre-employment and annual

Designate

- Designate a C/TPA (optional)
- C/TPA may conduct queries, report violations and RTD information on your behalf

Owner-Operator Requirements

Register

- Register as an employer, indicate you are an owner-operator
- Link to your FMCSA Portal account (option)
- Add/verify your CDL (optional)

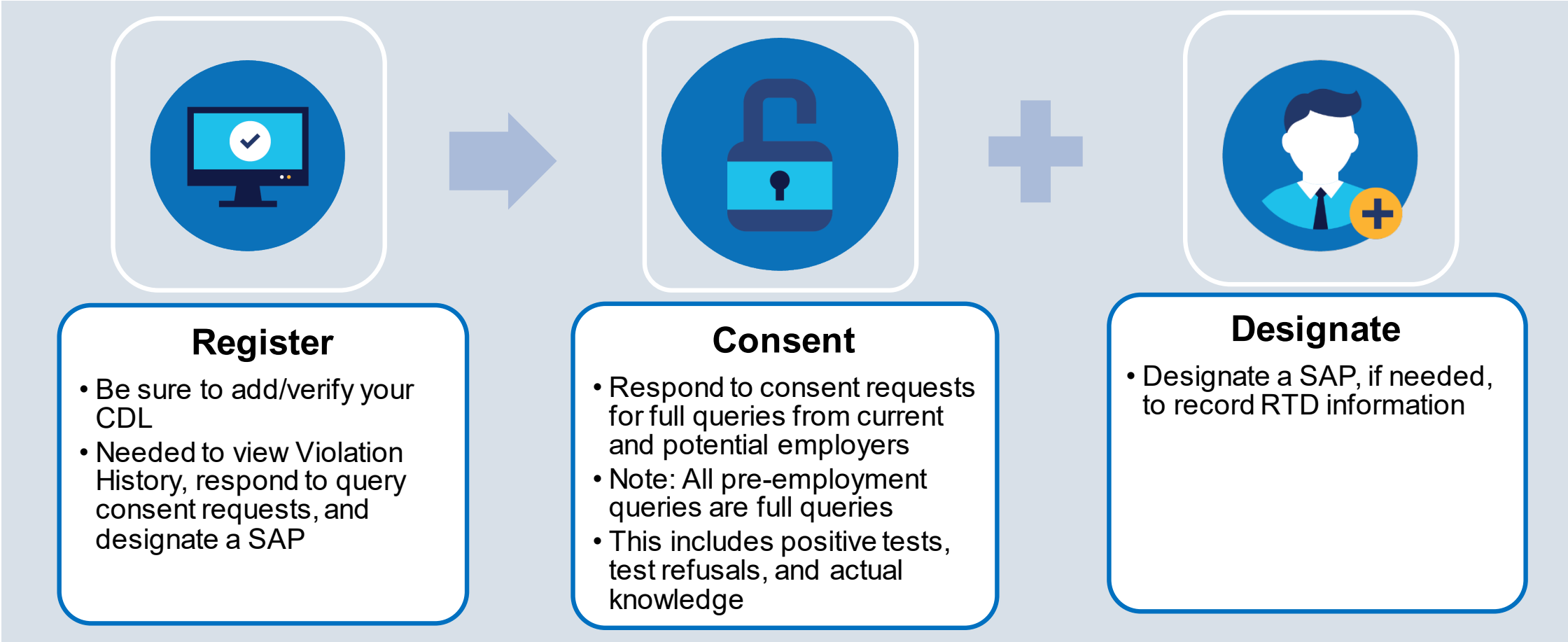
Query

- Check if a driver is prohibited from operating a CMV
- Pre-employment queries on any new drivers
- Annual queries on all drivers, including yourself

Designate

- Designate a C/TPA (required)
- C/TPA must report violations and RTD information
- Owner-operators may designate C/TPA to conduct queries, or conduct their own

Driver Requirements



Register

- Be sure to add/verify your CDL
- Needed to view Violation History, respond to query consent requests, and designate a SAP

Consent

- Respond to consent requests for full queries from current and potential employers
- Note: All pre-employment queries are full queries
- This includes positive tests, test refusals, and actual knowledge

Designate

- Designate a SAP, if needed, to record RTD information

Failure to provide consent to a request for a full query will result in the driver being prohibited from performing safety-sensitive functions (including operating a CMV) *for that employer*, in accordance with 49 CFR 382.703(c).

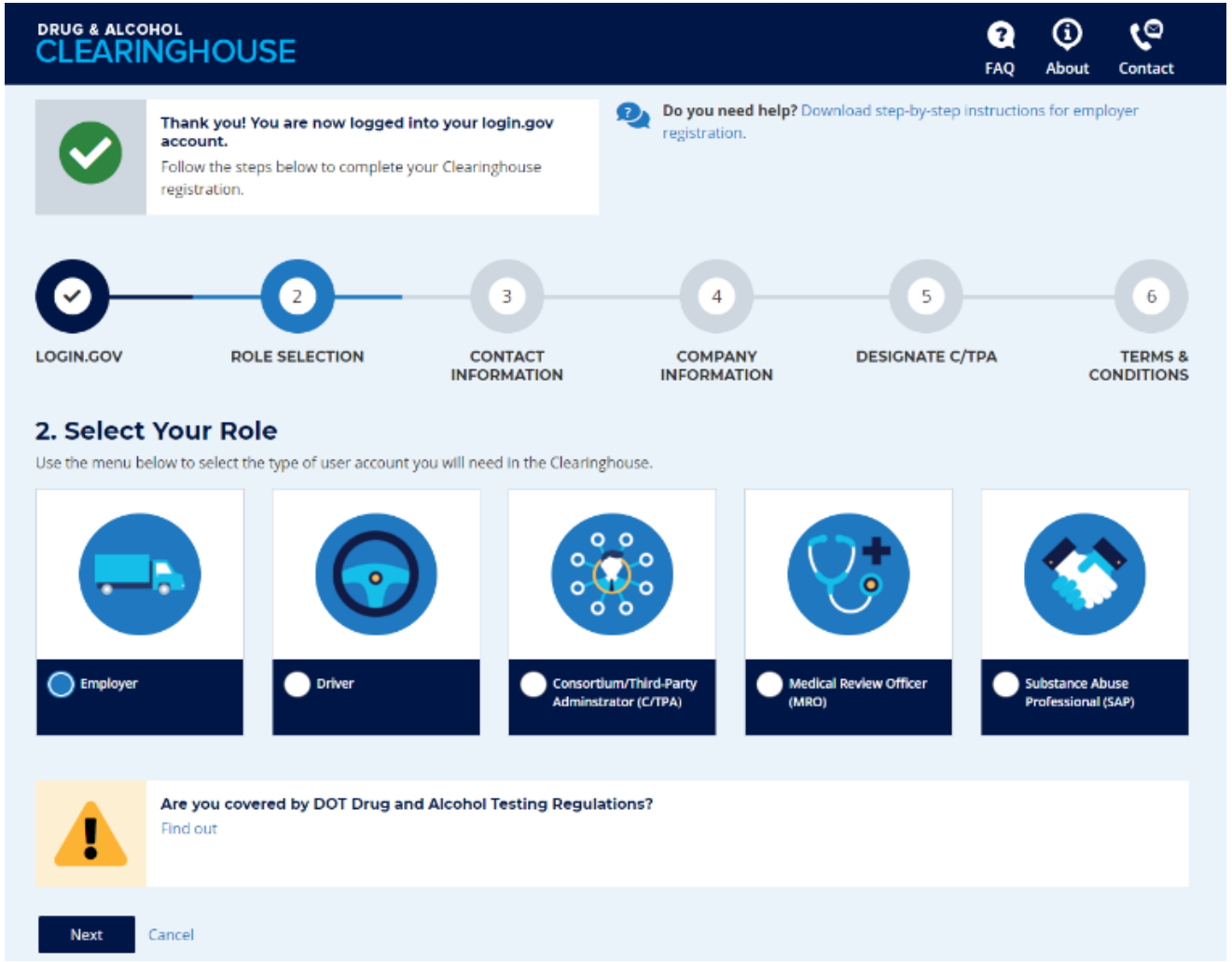
Registration

Registering for the Clearinghouse

- Must have a login.gov account to register for the Clearinghouse

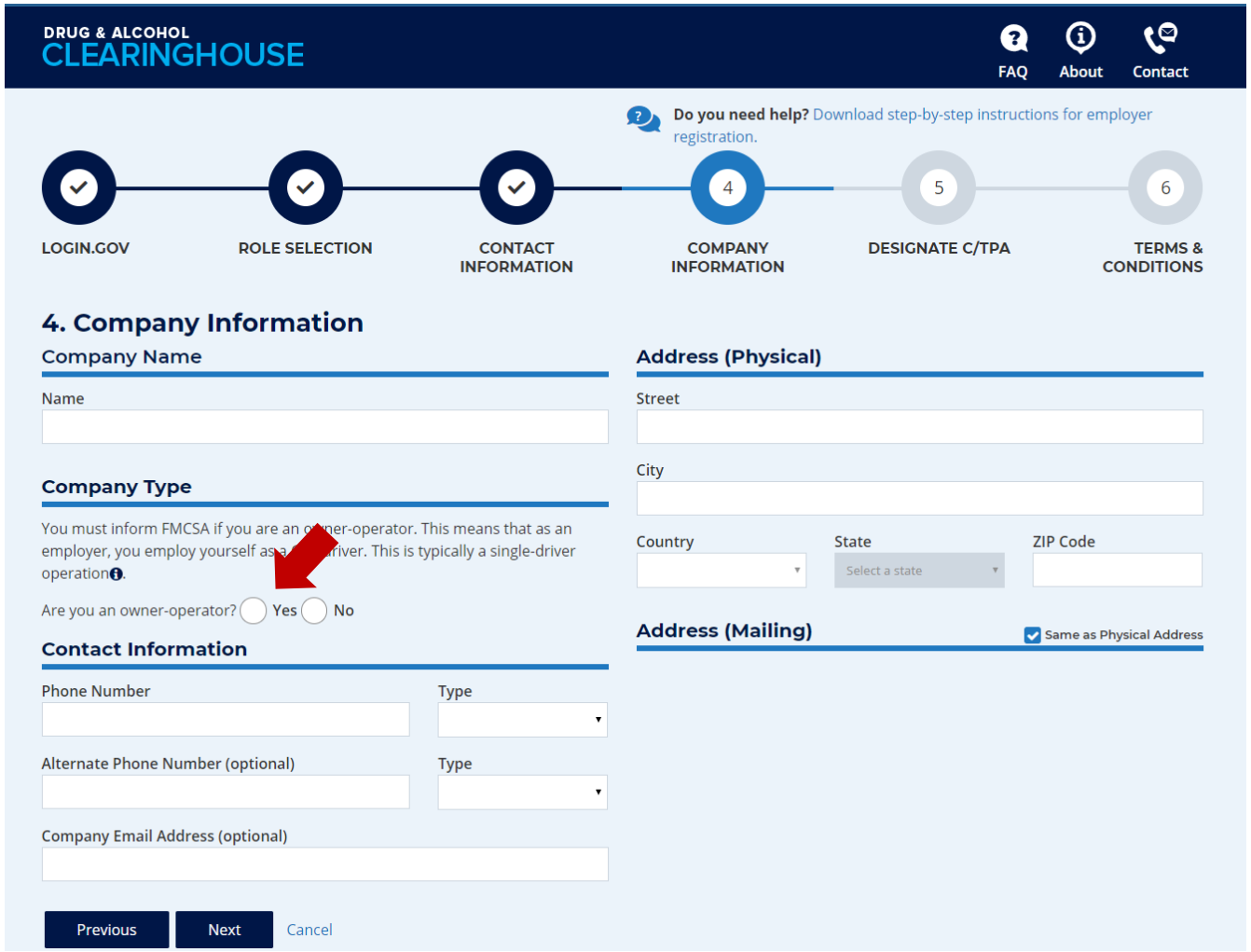
  When selecting a method for second factor authentication do not select “backup codes”

- After you have logged in to your login.gov account, select your user role



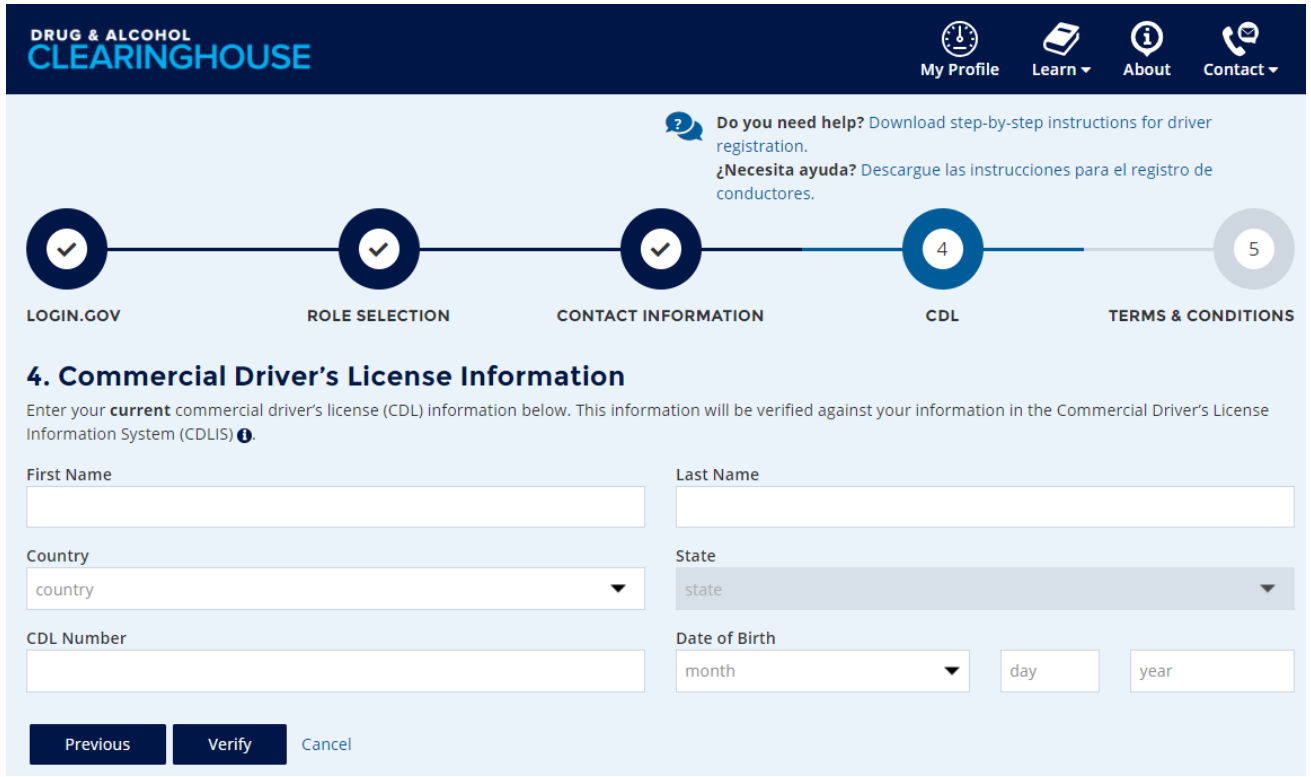
Registering for the Clearinghouse – Owner-Operators

- Register as an employer
  - Link to your FMCSA Portal account (optional)
- Select "Yes" when asked if you are an owner-operator
- Designate a C/TPA (required)
  - Must report violation information
  - May conduct queries
- Add/verify your CDL information
  - Needed to view Violation History and respond to query consent requests



Registering for the Clearinghouse – Drivers

- Enter and **validate your current** commercial driver's license (CDL) or commercial learner's permit (CLP) information
  - **Note:** This is required to view your Clearinghouse record and respond to query consent requests
  - Include any leading zeroes
  - Try entering with or without special characters (spaces, hyphens), as requirements vary by State



Queries and Consent Requests

Query Requirement

- A query is a check of the Clearinghouse to ensure a CDL driver is not prohibited from performing safety-sensitive functions (such as operating a CMV) due to a drug and alcohol program violation
- All queries require driver consent

Purpose	Description
Pre-employment query	Required for all newly hired CDL drivers - Until January 5, 2023, a manual check is still required for the prior 3 years
Annual query	Follows a rolling 12-month calendar *Example: Query driver J. Smith on December 1, 2020 – not required to query J. Smith again until December 1, 2021* **If you have not yet conducted annual queries, the deadline is January 5, 2021**

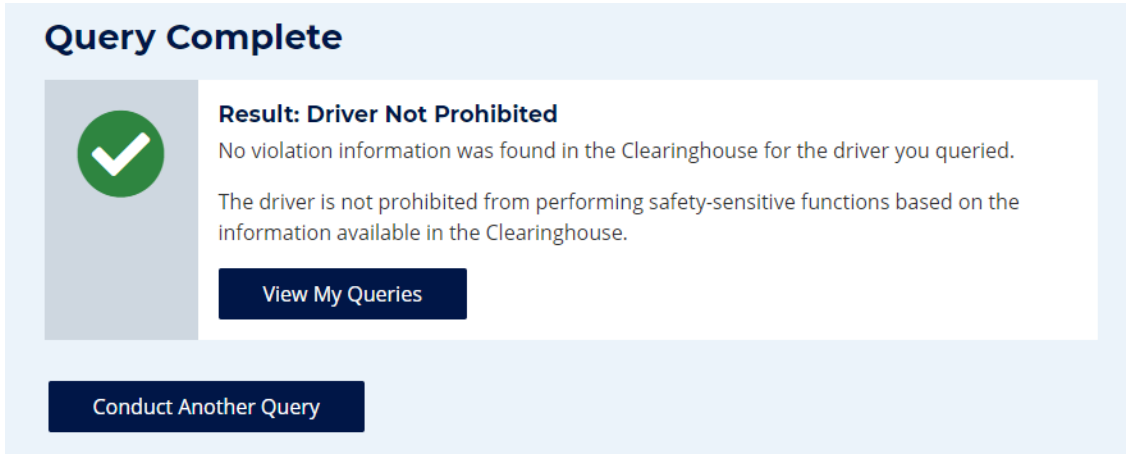
Consent Requirements Based on Type of Query

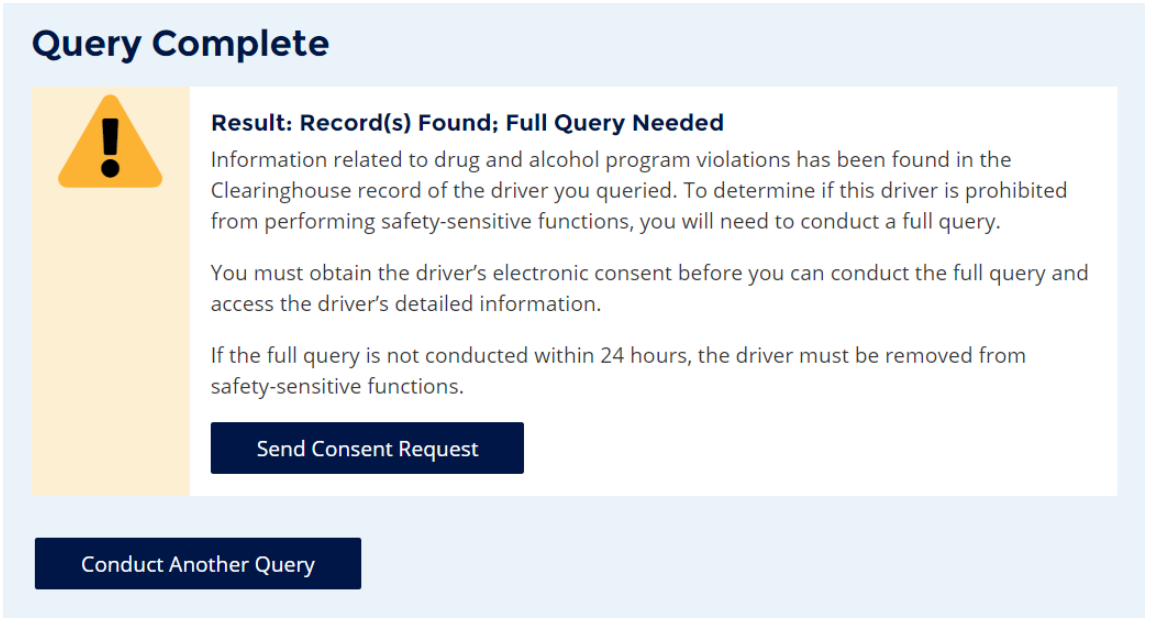
Reason for Query	Type of Query	Consent Required
Annual query	**Limited Query**	General consent, done outside the Clearinghouse May be electronic or wet signature, one time or unlimited Limited consent form must specify time range
Pre-employment query	**Full Query**	Specific consent, provided electronically within the Clearinghouse Required for each full query of an individual driver

Download a sample general consent form.

- If a driver refuses consent (for any query) the query cannot be conducted and the driver is prohibited from performing safety-sensitive functions *for that employer.*

Query Results – Limited Query

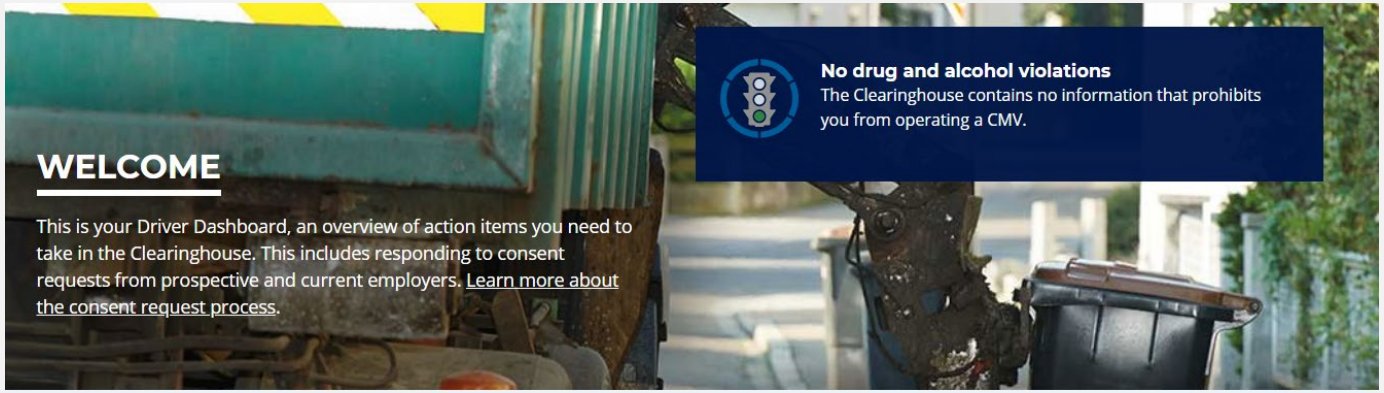




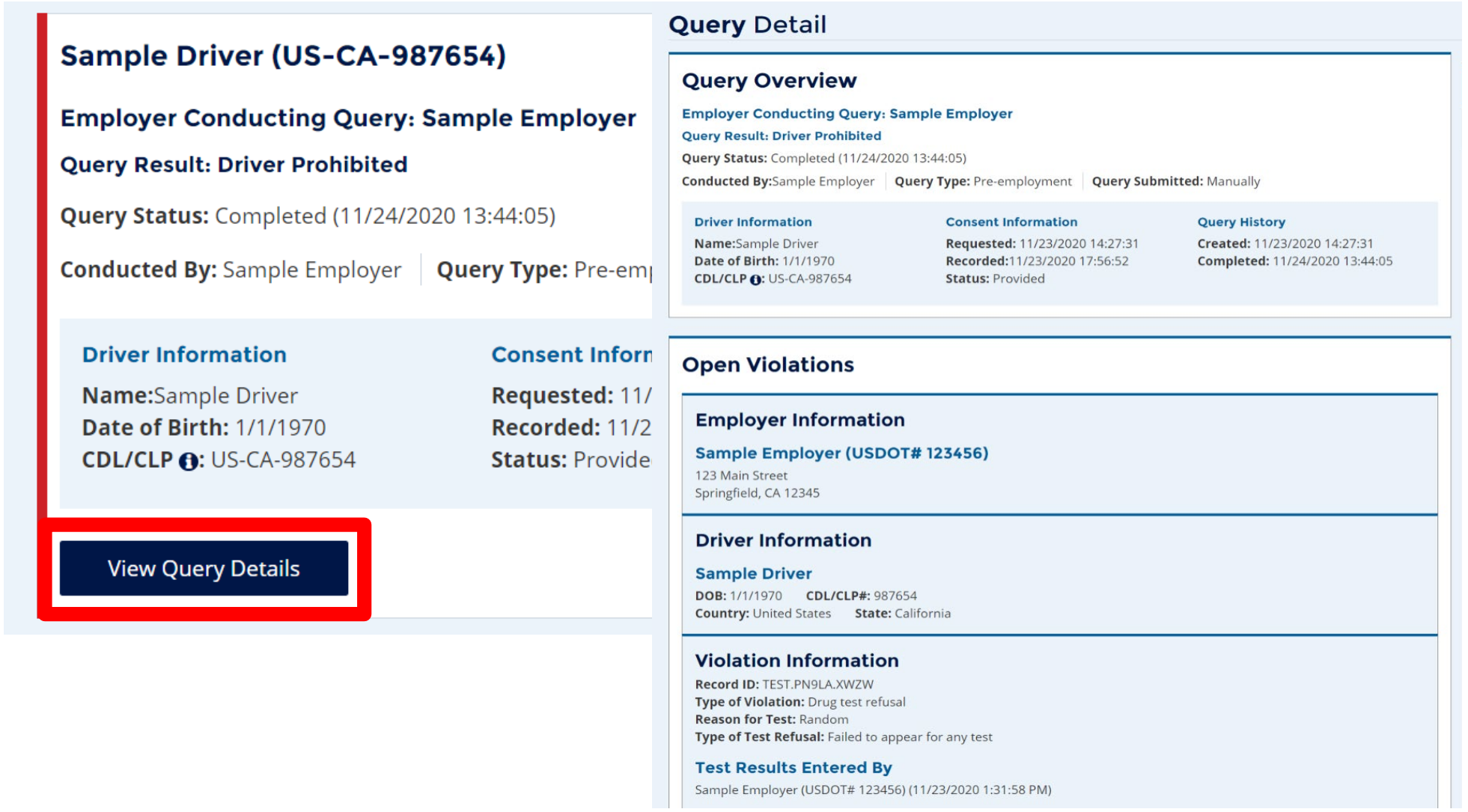
"Record(s) Found" is not a notification that a queried driver is prohibited from performing safety-sensitive functions. The full query is needed to determine the driver's eligibility status.

Drivers Responds to Consent Request in the Clearinghouse

- Drivers will log in to the Clearinghouse to respond to a consent request
  - Query consent requests will be displayed on the Driver Dashboard



Employer Query Results – Full Query



Driver's View of Violation Information

Violation History

Reported On: 11/19/2020 12:46:47 PM | **Reason for Test: N**

Reported By: Sample Employer | **Status:** Open

Actual knowledge of an alcohol violation

View RTD Process Details | View Violation Details

If you believe information has been inaccurately reported, you can file a

A drug or alcohol violation will remain in the Clearinghouse until the viol
determination, whichever is later. The Clearinghouse does not contain v

Violation Details

Return to Duty (RTD) Status

Status: Open - Initial SAP Assessment Complete

SAP Request Sent: 11/19/2020
SAP Designated: 11/19/2020
Initial SAP Assessment: 11/22/2020
Determined Eligible for RTD Testing: Not Completed
RTD Test with Negative Result: Not Completed
Follow-Up Testing Plan: Not Completed

Employer Information

Sample Employer
Main Street
Springfield, CA 12345

Driver Information

AndyG Driver2J
DOB: 2/25/1963 **CDL/CLP#:** CDL1234
Country: United States **State:** California

Violation Information

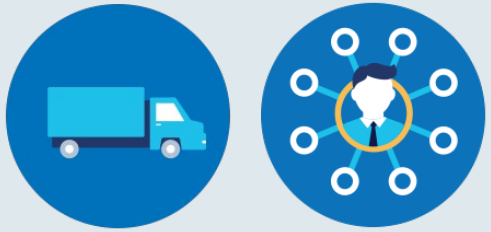
Record ID: TEST.ZF25Z.KUW1
Type of Violation: Actual knowledge of an alcohol violation
Alcohol Use: On-Duty
Actual Knowledge Type: Information provided by previous employer

Test Results Entered By
Presidential Employer (11/19/2020 12:46:47 PM)

Violations

Reporting Violations – Employers and C/TPAs

What violations are the employer or designated C/TPA required to report?

	INFORMATION TO BE REPORTED TO CLEARINGHOUSE
 **Prospective/Current Employer of CDL Driver** **Or** **Service agent acting on behalf of Current Employer of CDL Driver**	An alcohol confirmation test with a concentration of 0.04% or higher
	Refusal to test (alcohol) as specified in 49 CFR 40.261
	Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191
	Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance
	Negative RTD test results (drug and alcohol testing, as applicable)
	Completion of follow-up testing

Reporting Violations – MROs and SAPs

What information is the MRO or SAP required to report?

	INFORMATION TO BE REPORTED TO CLEARINGHOUSE	DEADLINE FOR REPORTING INFORMATION
MRO	Verified positive, adulterated, or substituted drug test result	Within **two** business days of making a determination or verification of a DOT-approved drug test
	Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191	
	Changes a verified drug test per 49 CFR Part 40	Within **one** business day of making any change in the reported results
SAP	Identification of driver and date the initial assessment was initiated	By the close of the business day following the date of initial assessment
	Date of determination of eligibility for RTD testing	By the close of the business day following the determination that the driver completed the RTD process

Frequently Asked Questions

- **Will violations that occurred prior to January 6, 2020 be reported to the Clearinghouse?**
  - No, only violations that occur on January 6, 2020 or later.
- **How long is the violation information retained in the Clearinghouse?**
  - 5 years or until the follow-up testing plan is successfully completed, whichever is later.
- **Can an MRO or employer report a drug and alcohol program violation if the driver is not registered for the Clearinghouse?**
  - Yes. The Clearinghouse will associate the violation with a driver's CDL information. This will be recorded even if the driver has not registered for the Clearinghouse.

Frequently Asked Questions

- **What information may be challenged by the driver?**
  - The accuracy of the information reported
  - Report of employer's actual knowledge the driver received a traffic citation for driving a CMV while under the influence of drugs or alcohol if it did not result in a conviction
  - **Accuracy of test results and refusals may not be challenged**
- **How does a driver change or remove inaccurate data?**
  - The driver may submit a petition via FMCSA's DataQs system
  - FMCSA will review petition and notify driver of decision to remove, retain, or correct information in the Clearinghouse and the reason for decision
  - If the driver believes a petition decision was made in error, he/she may submit a request for an Administrative Review
    - Request must include an explanation why he/she believes FMCSA made an error in their decision
    - Driver informed of decision
    - Decision will constitute as the final Agency action

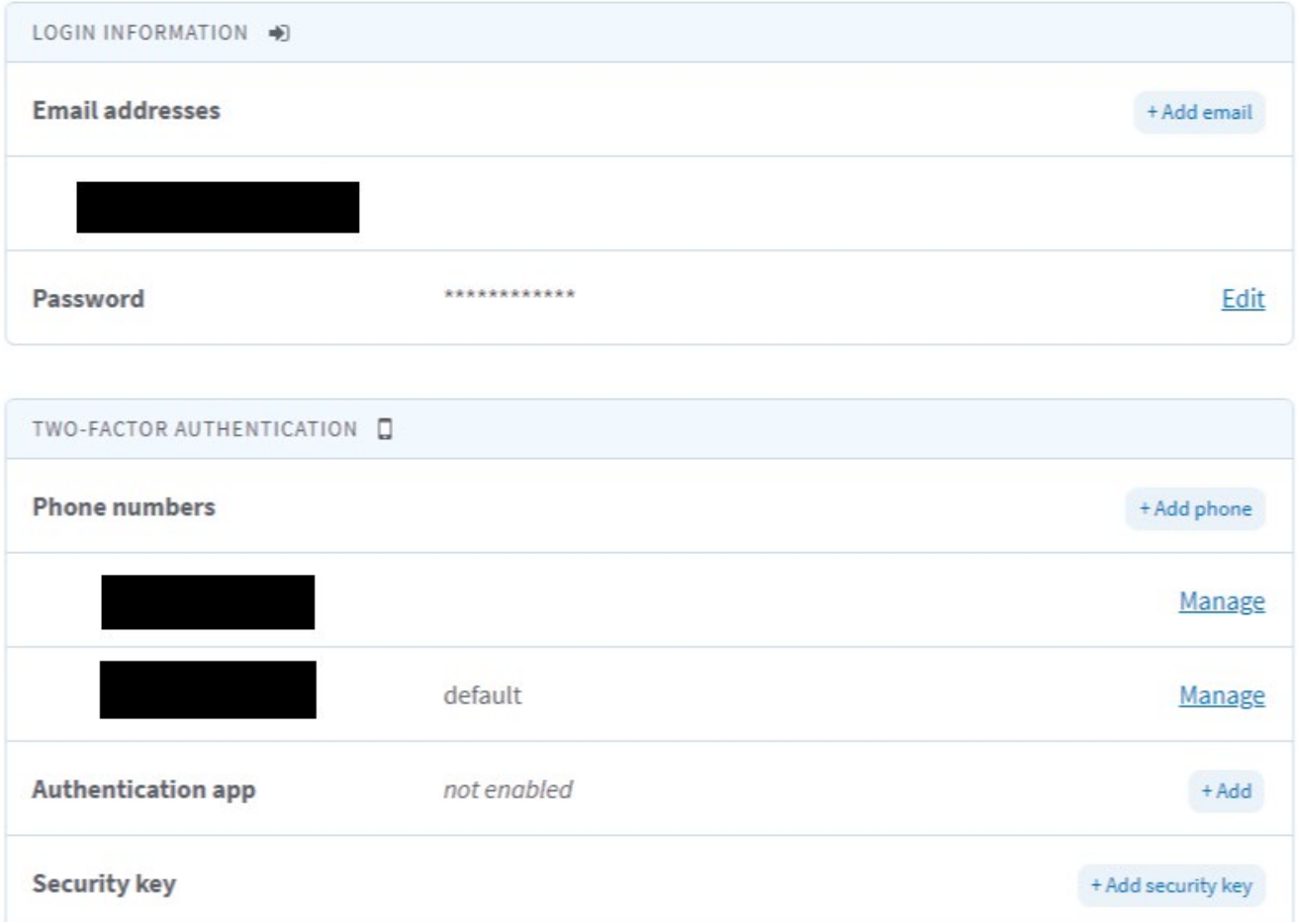
Frequently Asked Questions

- **The return-to-duty (RTD) process has not changed**
  - Driver must designate a DOT-qualified SAP after a positive or refusal
  - Date the driver's initial SAP assessment is completed
    - Note: Employer must provide the driver with a list of potential SAPs
  - Designated SAP will enter information about the driver's treatment into the Clearinghouse
  - Driver will need to take a negative RTD test, test results are recorded in the Clearinghouse by the employer or designated C/TPA
- **Will a driver's follow-up testing plan be available in the Clearinghouse?**
  - No, follow-up testing plans will not be included in a driver's Clearinghouse record.
  - When a prospective employee has not completed a follow-up testing plan prescribed by the SAP, the subsequent new employer must obtain the follow-up testing plan from the previous employer, as required in § 382.413, and report the date the follow-up testing plan was completed.

Common Issues

Common Issues – login.gov

- Change email address and authentication method
  - Log in to https://secure.login.gov/.
  - Scroll to add or edit "Two-Factor Authentication."
  - Click on "Add email". Then, click on "Delete" next to the email address you are replacing.



Common Issues – Violations

- **Driver cannot view query or violation information**
  - Verify MRO or Employer reported the violation
  - Verify correct CDL information was entered for the Driver
  - Verify registration included your CDL information
- **Driver cannot designate a SAP**
  - Ensure violation was reported
  - Verify correct CDL information was entered for the Driver
  - Ensure the SAP is registered
  - Ensure the Driver is entering the SAP's name correctly

Q&A

Next Steps

Register

For information to get started, visit
https://clearinghouse.fmcsa.dot.gov/Register

For more information:

- Visit the Clearinghouse Learning Center at https://clearinghouse.fmcsa.dot.gov/Learn for resources and answers to common questions

Contact us:

- Email clearinghouse@dot.gov
- Call 844-955-0207