## DRUG & ALCOHOL CLEARINGHOUSE

For CDL drivers, employers, and C/TPAs January 2020

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QUERIES AND CONSENT REQUESTS

Query and consent requirements in the Clearinghouse

# Overview of the Clearinghouse

## The FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse

## Database containing CDL drivers' drug and alcohol program violation information

- Reported by employers and medical review officers (e.g., positive tests, refusals, etc.)
- Information includes whether a driver has successfully completed the mandatory return-toduty (RTD) process following a violation

## The Clearinghouse will keep driver information secure

- Only select registered users can access the Clearinghouse for designated purposes
- Other enforcement agencies, such as State Driver's Licensing Agencies and State law enforcement agencies, only receive a driver's eligibility status
- Drivers can access their own information, free of charge, but not information of other drivers
- The Clearinghouse meets all relevant Federal security standards and FMCSA will verify the effectiveness of security protections regularly

## The Clearinghouse Final Rule

- Mandated by Congress (MAP-21, Section 32402)
- Published December 5, 2016
- Established requirements for the Clearinghouse
- Identified January 6, 2020 as the Clearinghouse implementation date





### Read the Clearinghouse final rule at:

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

## Increasing safety on our Nation's roadways

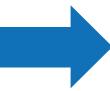
Real-time access to reported violation information for select registered users

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

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

More insight into employer compliance with drug and alcohol testing rules





**Safer Roadways** 

# Using the Clearinghouse

## Who is required to use the Clearinghouse?

- Drivers who hold Commercial Driver's Licenses (CDLs) or Commercial Learner's Permits (CLPs)\*
- Employers of CDL drivers who operate commercial motor vehicles (CMVs)
- Consortia/third-party administrations (C/TPAs)
- Medical review officers (MROs)
- Substance abuse professionals (SAPs)
- State Drivers Licensing Agencies (SDLAs)





## What actions must users take in the Clearinghouse?

- Record Drivers' drug and/or alcohol program violations, and other related information in the Clearinghouse
- Consent Authorization to conduct a query
  - Requested by employers or C/TPAs
  - Provided or refused by drivers
- Query Determine if the Clearinghouse contains any records for the queried driver

✓ Record✓ Consent✓ Query✓ Safety

Users must register in the Clearinghouse to complete the actions listed above.



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

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

## **Employers and Consortia/Third-Party Administrators (C/TPAs)**

## Employers and designated C/TPAs complete the following actions in the Clearinghouse:

- 1. Register as a user and invite Assistants to enter violation information or conduct queries on their behalf
- Request specific consent from a driver to conduct a full query (includes preemployment queries)
- 3. Query all prospective employees, and all current employees at least annually, who meet the definition of a CDL driver
- **4. Report** the following:
  - Certain drug and alcohol program violations
  - Negative return-to-duty (RTD) alcohol and/or controlled substances test results
  - Successful completion of a driver's follow-up testing plan



## **CDL Drivers**

## Drivers may need to complete the following actions in the Clearinghouse:

- 1. Register as a user\*
  - \*Drivers only need to register for the Clearinghouse to complete the actions below.
- 2. Respond to a consent request for a full query from a current/potential employer, including all pre-employment queries
  - Failure to provide consent to such a request 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).
- 3. Review his or her Clearinghouse record
- 4. Designate a substance abuse professional (SAP) in the Clearinghouse

## **Owner-Operators**

### Owner-operators must complete the following actions in the Clearinghouse:

- 1. Register as an employer or driver
  - If operating under their own authority, an owner-operator must register as an employer and fulfill all employer requirements
  - If operating under someone else's authority, an owner-operator must register as a driver
- 2. Input CDL information (optional)
  - Needed to respond to consent requests from a C/TPA
- 3. Designate C/TPA(s) if registered as an employer
  - Indicate which action(s) the C/TPA(s) will take on your behalf
  - An owner-operator is a business owner who employs himself or herself as a CDL driver. This is typically a single-driver operation.
  - Owner-operators operating under their own authority must comply with all the Clearinghouse requirements for both employer and drivers.



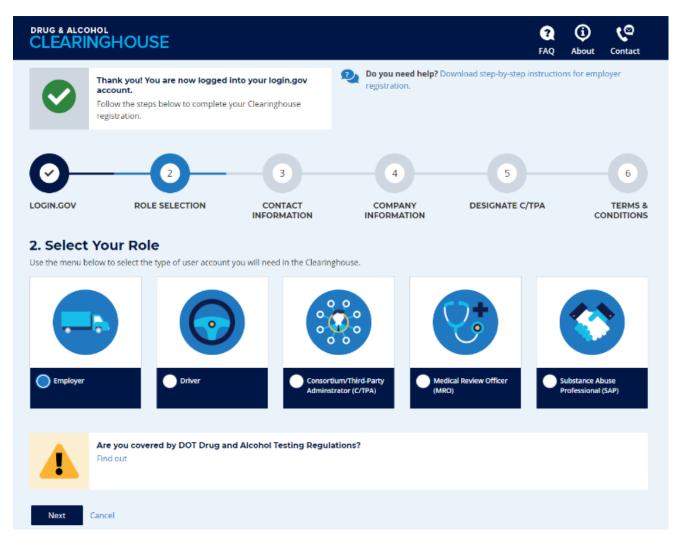
## Registering for the Clearinghouse

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



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

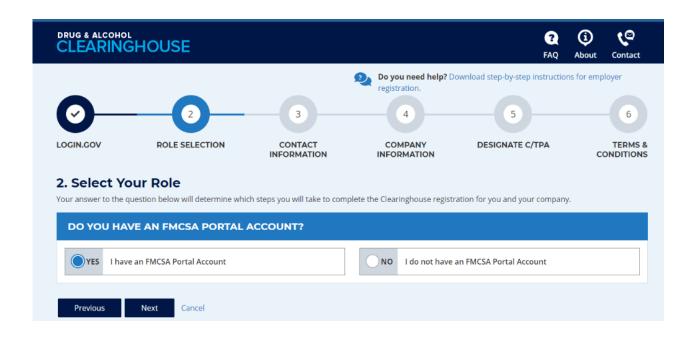
- After you have logged in to your login.gov account, select your user role.
- Owner-operators: select employer or driver, as applicable.

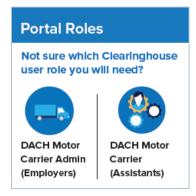




## Registering with an FMCSA Portal Account

- Employer registration will depend on if you have an FMCSA Portal account
- If you have, or should have, a USDOT Number, you should have a Portal account
- Your Portal account must have the correct user role
  - DACH Motor Carrier
     Can query, report
  - DACH Motor Carrier Admin
     Can query, report, designate
     C/TPA, indicate carrier type



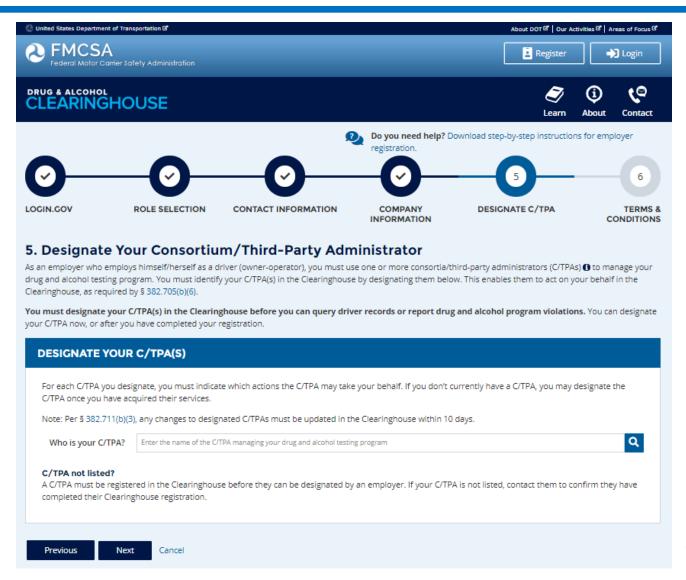


To request an FMCSA Portal account, visit <a href="https://portal.fmcsa.dot.gov/login">https://portal.fmcsa.dot.gov/login</a>



## **Designating a C/TPA**

- C/TPAs must be registered in the Clearinghouse before they can be designated
- Employers select the actions a C/TPA may take on their behalf
- Owner-operators must designate at least one C/TPA to complete the following:
  - Report violations
  - Report RTD information







# **Queries and Consent Requests**

## **Query Requirements**

#### **Employers are required to query the Clearinghouse for:**

1. PRE-EMPLOYMENT SCREENING to ensure the prospective employee is not prohibited from performing safety-sensitive functions

2. ANNUAL VERIFICATION to ensure that a driver is still not prohibited from performing safety-sensitive functions

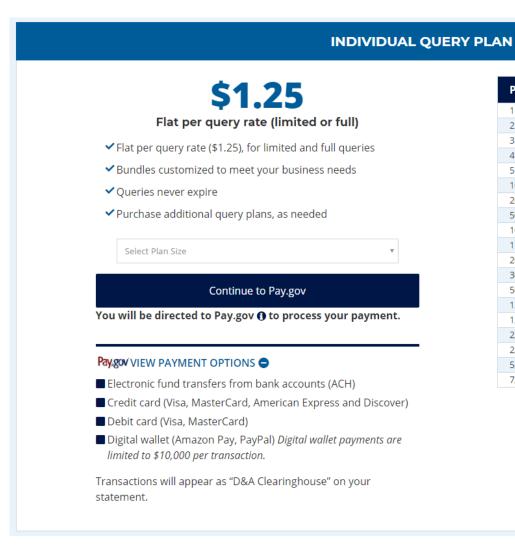
#### The purpose will determine the type of query:

Purpose	Query Type
Pre-employment screening	Full query – Access full details of all violation and violation-related information Includes return-to-duty (RTD) information
Annual verification	Limited query – Verify presence of driver information in the Clearinghouse If information is discovered, a full query is required

## **Consent Requirements Based on Type of Query**

	When is this query required?	How is consent provided?	For how long is consent effective?	What action is required?
LIMITED QUERY	Annual check on currently-employed driver  Ad hoc/periodic check on driver	General consent, done outside the Clearinghouse  May be electronic or wet signature, one time or unlimited	Limited consent form must specify time range	<ul> <li>Consent refused</li> <li>Query cannot be conducted</li> <li>Driver removed from safety-sensitive functions</li> <li>Consent provided</li> <li>Retain via paper or electronically in driver's qualification file</li> <li>Request limited query in the Clearinghouse</li> </ul>
FULL QUERY	Pre-employment check on prospective driver  Limited query returned records for queried driver  Ad hoc/ periodic check on driver	Specific consent, provided electronically within the Clearinghouse	For each full query of an individual driver	<ul> <li>Consent refused</li> <li>Employer notified of refused consent</li> <li>Query cannot be conducted</li> <li>Driver cannot perform/removed from safety-sensitive functions</li> <li>Consent provided</li> <li>Query conducted</li> <li>Violation details released, including RTD status</li> <li>If queried driver has violation and no negative RTD test result, driver removed from safety-sensitive functions</li> </ul>

## **Query Plans**



Plan Size	Plan Cost
1	\$1.25
2	\$2.50
3	\$3.75
4	\$5.00
5	\$6.25
10	\$12.50
20	\$25.00
50	\$62.50
100	\$125.00
150	\$187.50
200	\$250.00
300	\$375.00
500	\$625.00
1,000	\$1,250.00
1,500	\$1,875.00
2,000	\$2,500.00
2,500	\$3,125.00
5,000	\$6,250.00
7,500	\$9,375.00



## **Query Plans**

UNLIMITED QUERY PLAN

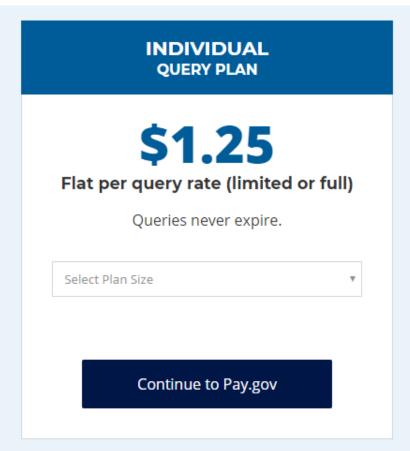
\$24,500

One annual payment

Expires 12 months after date of purchase\*

\* **Note:** Unlimited query plans purchased prior to January 6, 2020 will go into effect on January 6, and will expire on January 5, 2021.

Continue to Pay.gov



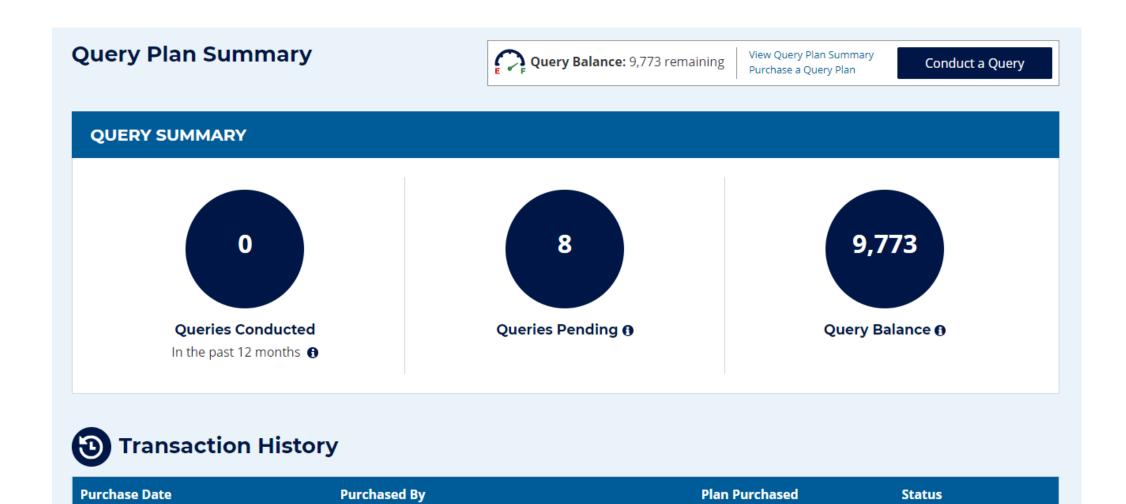
Plan Size	Plan Cost
1	\$1.25
2	\$2.50
3	\$3.75
4	\$5.00
5	\$6.25
10	\$12.50
20	\$25.00
50	\$62.50
100	\$125.00
150	\$187.50
200	\$250.00
300	\$375.00
500	\$625.00
1,000	\$1,250.00
1,500	\$1,875.00
2,000	\$2,500.00
2,500	\$3,125.00
5,000	\$6,250.00
7,500	\$9,375.00

You will be directed to Pay.gov • to process your payment.

Paid (Receipt)

## **Query Plans**

12/6/2019 | 11:26 AM



5 Query Plan

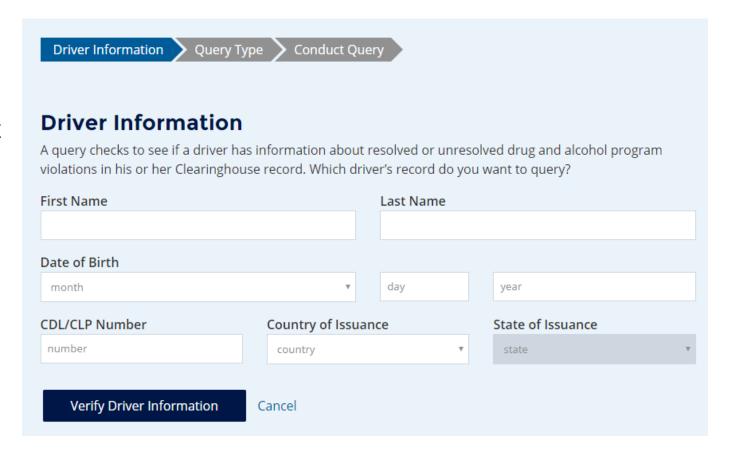
Sample-Employer@example.com



## **Conduct Query – Enter Driver Information**

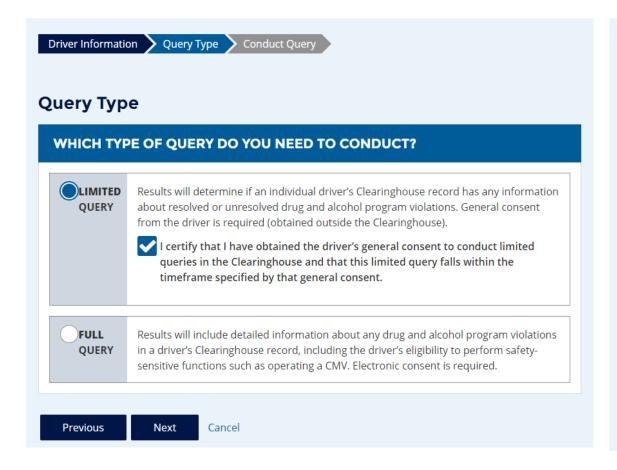
### Driver Information

- Driver's name, date of birth, and
   CDL number and state/country of issuance
- Information will be verified against FMCSA systems
  - Employer or C/TPA has two attempts to enter the driver's information correctly
  - If the information cannot be validated, the query can not be conducted





## **Conduct Query – Select Query Type**



**Driver Information** Query Type **Conduct Query Query Type** WHICH TYPE OF QUERY DO YOU NEED TO CONDUCT? Results will determine if an individual driver's Clearinghouse record has any information LIMITED about resolved or unresolved drug and alcohol program violations. General consent QUERY from the driver is required (obtained outside the Clearinghouse). FULL Results will include detailed information about any drug and alcohol program violations in a driver's Clearinghouse record, including the driver's eligibility to perform safety-**QUERY** sensitive functions such as operating a CMV. Electronic consent is required. Is this full query being conducted as part of a pre-employment screening? **Previous** Next Cancel

A sample limited consent form is available in the file share pod and in the Clearinghouse Learning Center.

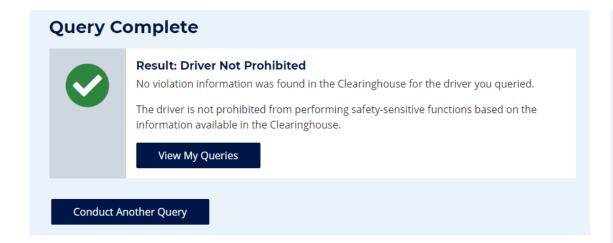
## **Conduct Query – Limited Query**

- Click Conduct Query to proceed with the limited query
  - One query will be deducted from the employer's Query Balance





## **Query Results – Limited Query**





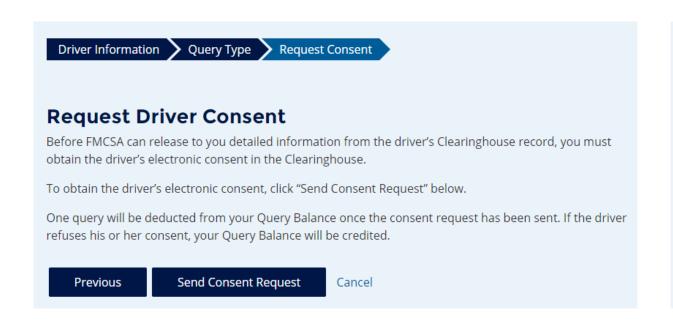
"Record(s) Found" is not a notification that a queried driver is prohibited from performing safetysensitive functions. The full query is needed to determine the driver's eligibility status.



## **Conduct Query – Send Consent Request (Full Query)**

### Full Query

Must obtain electronic consent, then log in to Clearinghouse to view results



#### **Consent Requested**



#### The consent request has been sent.

You will receive a notification email once the driver has responded to the consent request.

You can check the status of the consent request on your Queries page.

Note: The driver must be registered in the Clearinghouse to respond to this consent request.

If this driver is not registered in the Clearinghouse, he or she will receive a letter via United States Postal Service (allow 1-2 weeks for delivery) advising him or her to register in the Clearinghouse to respond to this consent request

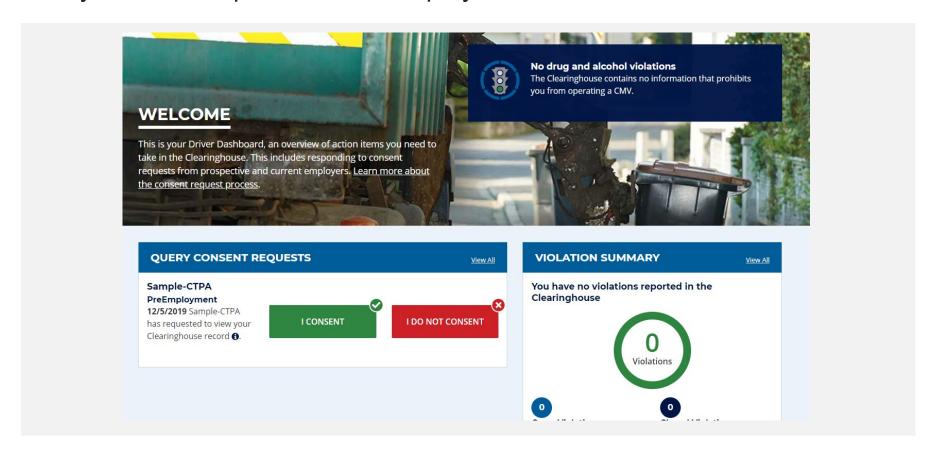
To avoid delays, encourage the driver to register in the Clearinghouse and respond to this request.

Conduct Another Query



## **Drivers Responds to Consent Request in the Clearinghouse**

- Drivers 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**

John Smith (US-MA-1234567)

Sample-Employer

Result: Prohibited | Status: Completed (1/9/2020 3:

Conducted By: Sample-Employer@example.com Quer

**Driver Information** 

Name: John Smith

Date of Birth: 5/3/1990

CDL/CLP: US-MA-1234567

Consent Info

Requested: 1/

Recorded: 1/9

Status: Provid

**View Query Details** 

#### **Query** Detail

#### **Query Overview**

John Smith (US-MA-1234567)

Sample-Employer

Result: Prohibited Status: Completed (1/9/2020 3:32:24 PM)

Conducted By: Sample-Employer@example.com | Query Type: LimitedToFull | Source: Website

**Driver Information** 

Name:John Smith

Date of Birth: 5/3/1990

CDL/CLP: US-MA-1234567

Consent Information

Requested: 1/9/2020 15:30:00 Recorded: 1/9/2020 15:32:24

Status: Provided

**Query History** 

Created: 1/9/2020 15:29:35

#### **Open Violations**

#### **Driver Information**

#### **John Smith**

DOB: 5/3/1990 CDL/CLP#: 1234567 Country: United States State: Massachusetts

#### **Violation Information**

Test ID: 987654321

Type of Violation: Concentration of 0.04% or greater

Test Date: 1/7/2020 Reason for Test: Random

#### **Test Results Entered By**

Sample-CTPA (1/8/2020 3:27:13 PM)

## **Driver's View of Violation Information**

## **Violation** History

**Teleported On: 11/26/2019 11:25:24 PM Test Reason: Rea** 

Reported By: MC of Boston (1)

Actual knowledge of a drug violation

**RTD Process Details** 

**Test Details** 

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

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

#### Violation Detail

#### Return to Duty (RTD) Status

#### Status:

SAP Request Sent: 12/4/2019 SAP Designated: 12/4/2019 Initial SAP Assesment: 12/4/2019

Determined Eligible for RTD Testing: Not Completed RTD Test with Negative Result: Not Completed Follow-Up Testing Plan: Not Completed

#### **Driver Information**

#### John Smith

DOB: 2/11/1984 CDL/CLP#: 345345435345 State: Massachusetts Country: United States

#### Violation Information

Type of Violation: Alcohol test refusal Reason for Test: Post-accident

Type of Test Refusal: Fail to appear for any test Remarks / Additional Information:

#### Test Results Entered By

MC of Boston (1)

#### **Notice to Appear**

Driver Notified: 11/22/2019 8:00:00 PM
Testing Site Location: 123 Main St, Boston, MA 02446, US
Date and Time to Appear: 11/22/2019 8:00:00 PM

User\_Stories\_Violation\_Reporting.docx

Document Type: Email Message Description: 23432435

#### **Driver Employment Status**

Separation due to: Resigned

#### Documentation

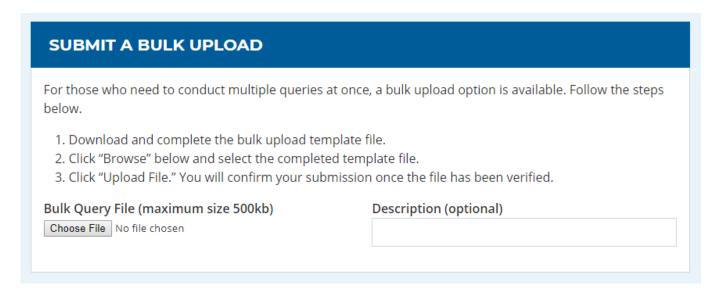
Violation-Reporting-MROv2.docx

Document Type: Other Description: 23423432434



## **Frequently Asked Questions**

- Can employers or their designated C/TPA(s) query multiple drivers at one time in the Clearinghouse?
  - Yes, employers or their designated C/TPA(s) will be able to conduct bulk queries via a tab separated values (TSV) spreadsheet.
  - Data fields include the driver's:
    - First and last name
    - Date of birth
    - CDL number
    - State of issuance
    - Country of issuance
    - Query type







# Reporting Violations in the Clearinghouse

## Which violations get reported to the Clearinghouse?



## 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 <u>49 CFR 382.107</u>, 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 violations are 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 <b>two</b> 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 <b>one</b> 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	

## What violation information do employers and C/TPAs need to report?

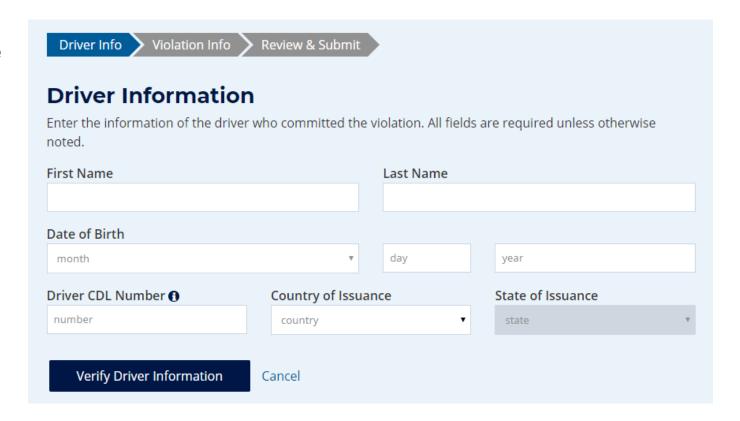
- Employer information (C/TPAs only)
  - Company name
- Driver information
  - Driver's name, date of birth, and commercial driver's license (CDL) number and state/country of issuance
- Type of violation
  - May require additional information
- Reason for the test
  - May require additional information
- Date of test
- Negative return-to-duty (RTD) test results
- Date the driver successfully completed all follow-up testing ordered by the substance abuse professional (SAP)



## Recording Violation Data – Employers and Designated C/TPAs

### Driver Information

- Driver's name, date of birth, and
   CDL number and state of issuance
- Information will be verified against FMCSA systems
  - You will have two attempts to enter the driver's information correctly
  - If the information cannot be validated, it will be flagged for review by FMCSA (data will still be accepted)

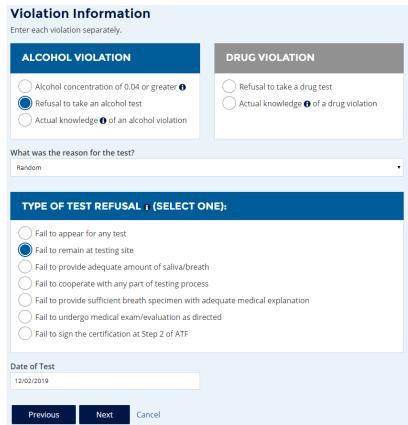




## Recording Violation Data - Employers and Designated C/TPAs

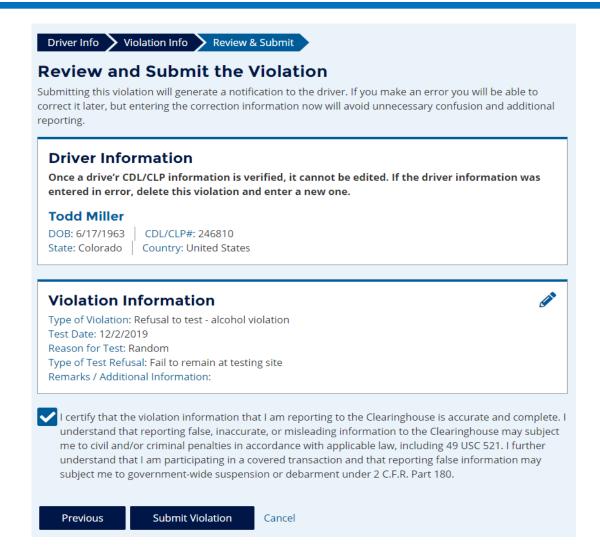
Employers (or their designated C/TPA) will add alcohol and drug violations







## Recording Violation Data - Employers and Designated C/TPAs



## **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 RTD process is successfully completed, whichever is later.
- Will a prospective employee's drug and alcohol violation history with other DOT modes be available in the Clearinghouse?
  - No, the Clearinghouse will contain only drug and alcohol program violation information for employees subject to the testing requirements under the Federal Motor Carrier Safety Regulations in 49 CFR part 382.
- Can an employer or MRO enter 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**

- Is an employer required to conduct pre-employment and annual Clearinghouse queries for drivers who are in a random testing pool regulated by another DOT agency?
  - Yes. An employer is required to conduct pre-employment and annual queries for all drivers subject to drug and alcohol testing under 49 CFR part 382.
  - While the employee may perform more than 50 percent of their functions for a mode other than FMCSA, possibly placing the employee in that agency's random pool, the Clearinghouse query requirements apply so long as the employee performs any FMCSA-regulated functions.
- Should an employer report to the Clearinghouse the results of a test conducted under the authority of another DOT agency?
  - No. Only part 382 drug and alcohol program violations may be reported to the Clearinghouse.
  - The Federal Drug Testing Custody and Control Form (CCF) specifies the DOT agency requesting the test, and employers may only report to the Clearinghouse a positive result when FMCSA is agency designated on the CCF.

## **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

## **NCCDB** and the Clearinghouse

- Complaints against employers, SAPs and MROs regarding the Clearinghouse will be submitted to NCCDB
  - These complaints, along with other data sources, are used to make decisions about which entities FMCSA will investigate.
- The following complaints can be submitted against employers, SAPs, and MROs:

Reporting Entity	Reason for the Complaint
Driver	Employer has accessed information in the Clearinghouse account without receiving consent
	Employer has failed to report information to the Clearinghouse (e.g. negative results or completion of follow-up testing
Driver	SAP failed to report information to the Clearinghouse within the required timeframe (e.g. date of initial assessment, eligibility for return-to-duty testing
	SAP unable to record information in the Clearinghouse (e.g. did not accept Clearinghouse request)
Employer or Designated C/TPA	MRO did not report the drug and/or alcohol violation within 2 business days after making the determination or verification
	MRO did not report a change to the results report within 1 business day

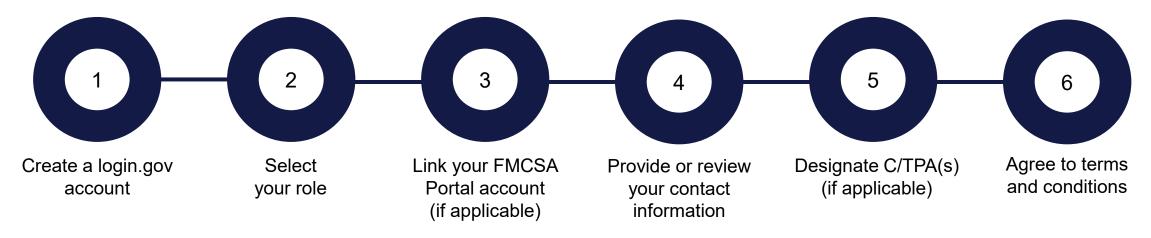




# Next Steps & More Information

## **Next Steps - Employers**

Register in the Clearinghouse



Need help? Download the registration job aids for step-by-step instructions.

- Invite Assistants
- Select and purchase a query plan
- Update office procedures and company policy in preparation for January 6, 2020

# **Next Steps - Drivers**

Register in the Clearinghouse

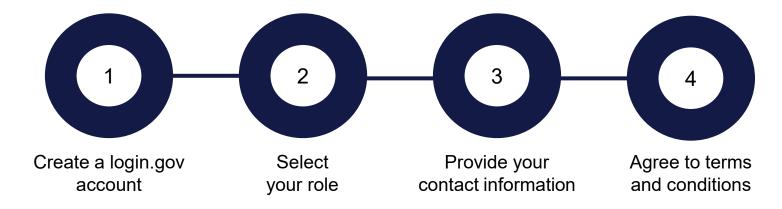


Need help? Download the registration job aids for step-by-step instructions.

 Educate yourself on the Clearinghouse, especially the consent request process

# **Next Steps – C/TPAs**

Register in the Clearinghouse

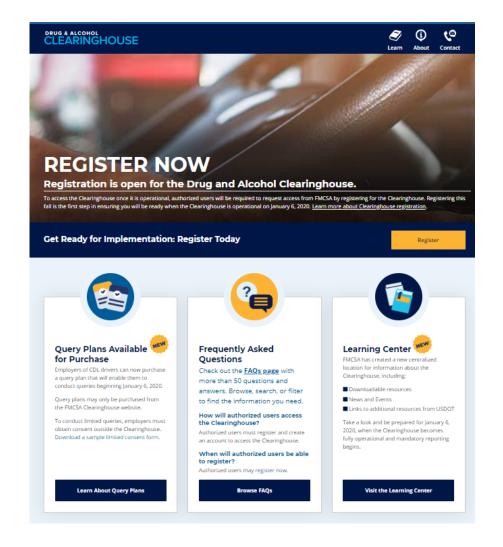


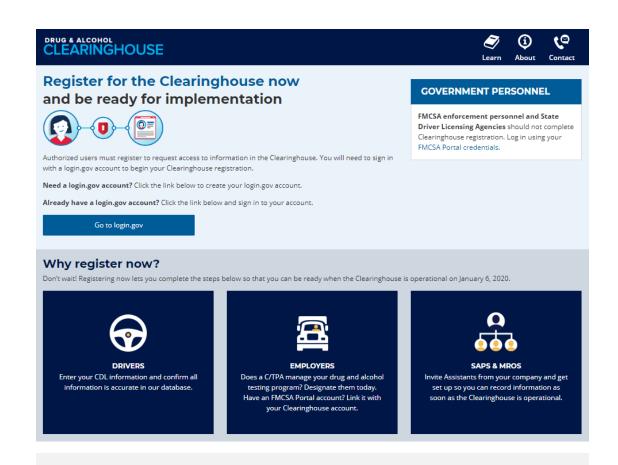
Need help? Download the registration job aids for step-by-step instructions.

- Invite Assistants
- Notify clients that you have registered



## Registration at https://clearinghouse.fmcsa.dot.gov





Visit the Clearinghouse Learning Center for step-bystep registration instructions:

https://clearinghouse.fmcsa.dot.gov/Learn





## For more information

## Visit <a href="https://clearinghouse.fmcsa.dot.gov">https://clearinghouse.fmcsa.dot.gov</a>

- > Subscribe for email updates
- > Read frequently asked questions
- Download the Clearinghouse materials

Contact <a href="mailto:clearinghouse@dot.gov">clearinghouse@dot.gov</a>



# Additional Information





### **Query Plans**

### Learn about Query Plan Options: **Factsheet Now Available**

Employers of CDL drivers can now review details on purchasing a query plan that will enable them to conduct queries starting January 6, 2020.

Query plans may only be purchased from the FMCSA Clearinghouse website. Query plans will be available for purchase fall

To conduct limited queries, employers must obtain consent outside the Clearinghouse. Download a sample limited consent form.

**Learn About Query Plans** 



### Frequently Asked Questions

Check out the FAQs page with more than 50 questions and answers. Browse, search, or filter to find the information you need.

### How will authorized users access the Clearinghouse?

Authorized users must register and create an account to access the Clearinghouse.

### When will authorized users be able to register?

Authorized users may register now.

**Browse FAQs** 



### Resources

Download the resources below and start preparing now for January 6, 2020.

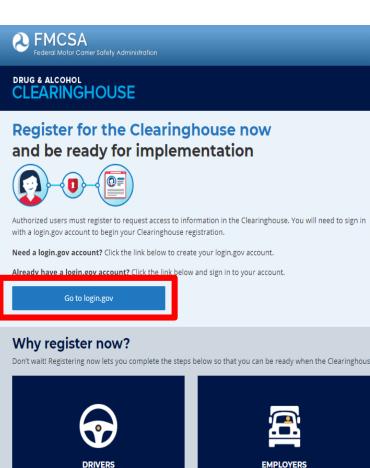
### **User Brochures**

- CDL Drivers
- Employers
- Owner-Operators
- C/TPAs
- MROs
- SAPs

### **Additional Resources**

- Queries and Consent Requests Factsheet
- User Roles Card
- Factsheet
- FMCSA Drug and Alcohol Testing Program resources for employers and drivers

**Download All Resources** 



### **GOVERNMENT PERSONNEL**

FMCSA enforcement personnel and State Driver Licensing Agencies should not complete Clearinghouse registration. Log in using your FMCSA Portal credentials.

Don't wait! Registering now lets you complete the steps below so that you can be ready when the Clearinghouse is operational on January 6, 2020.

Enter your CDL information and confirm all information is accurate in our database.

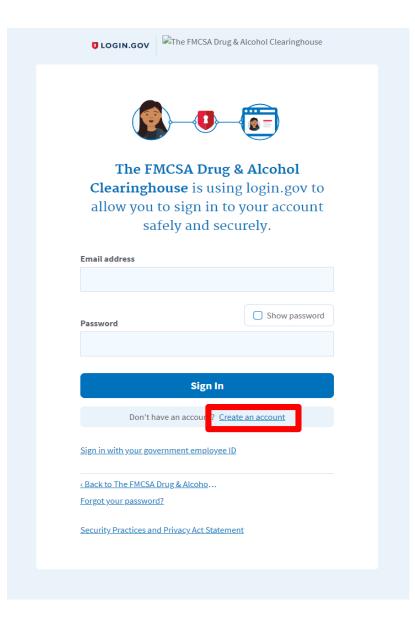


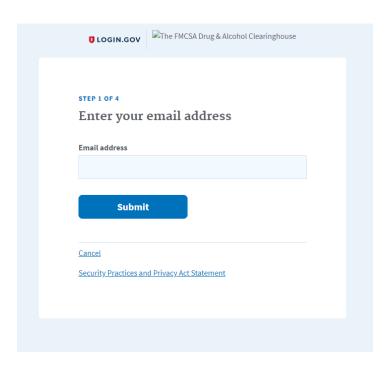
Does a C/TPA manage your drug and alcohol testing program? Designate them today. Have an FMCSA Portal account? Link it with your Clearinghouse account.

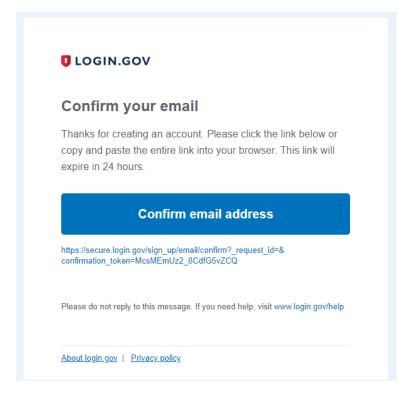


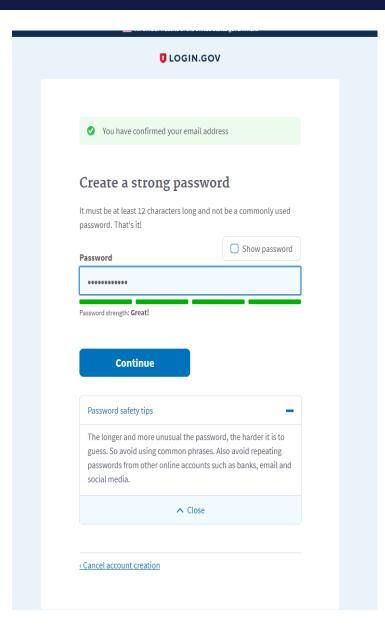
### **SAPS & MROS**

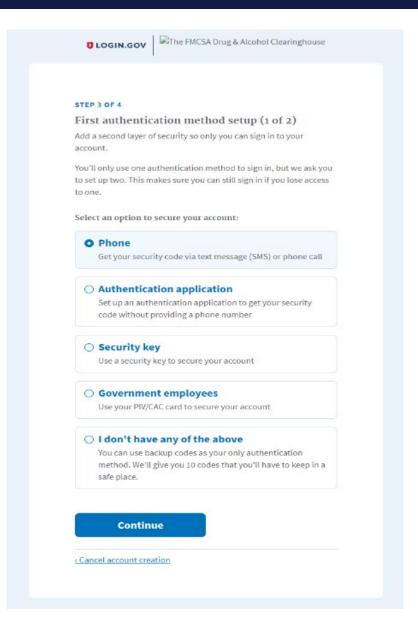
Invite Assistants from your company and get set up so you can record information as soon as the Clearinghouse is operational.

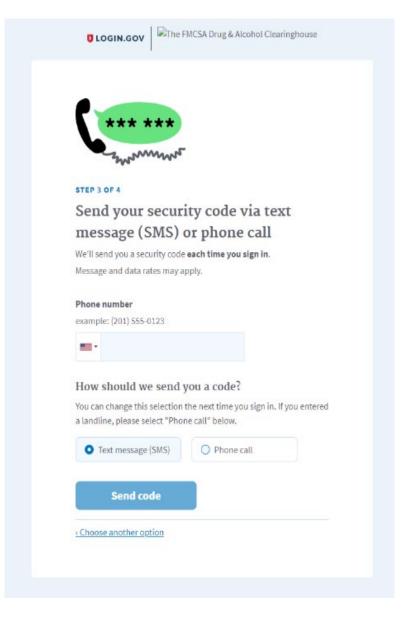


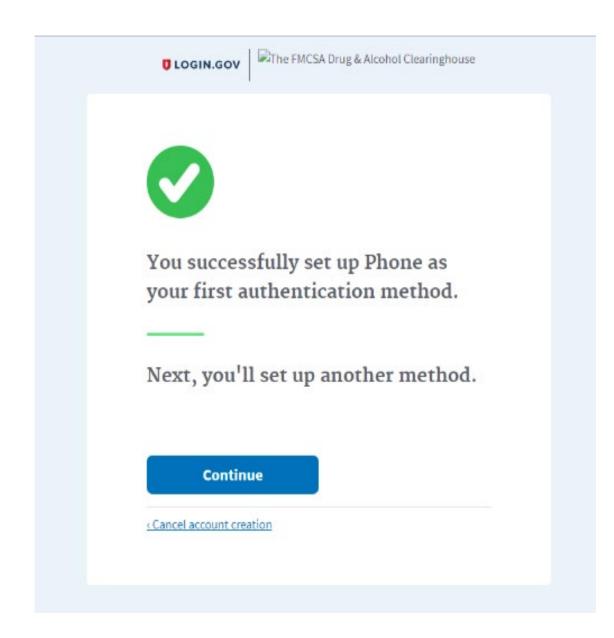


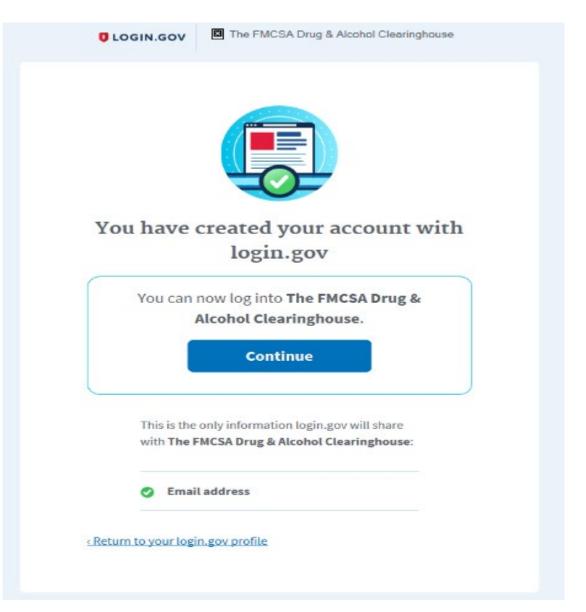


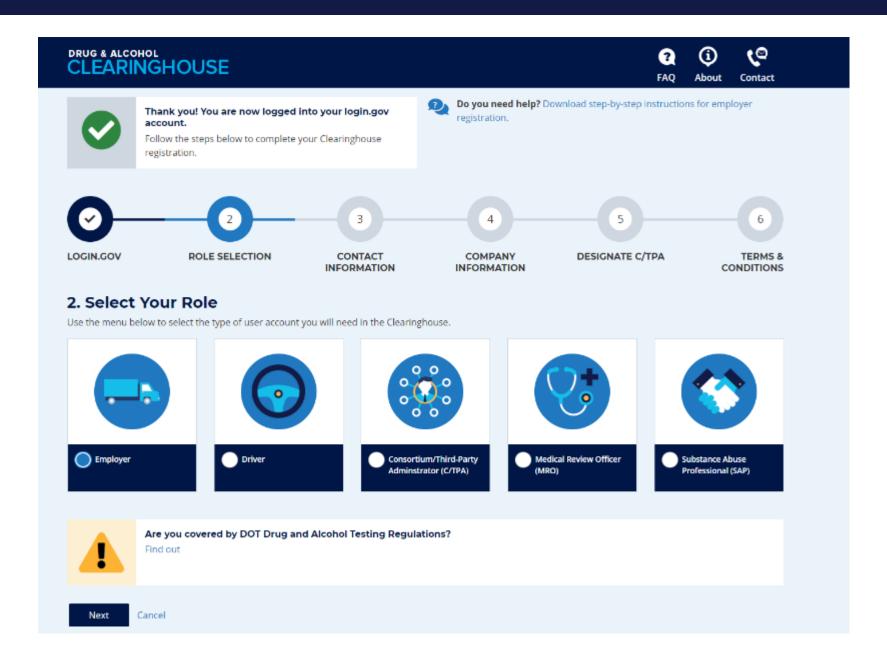


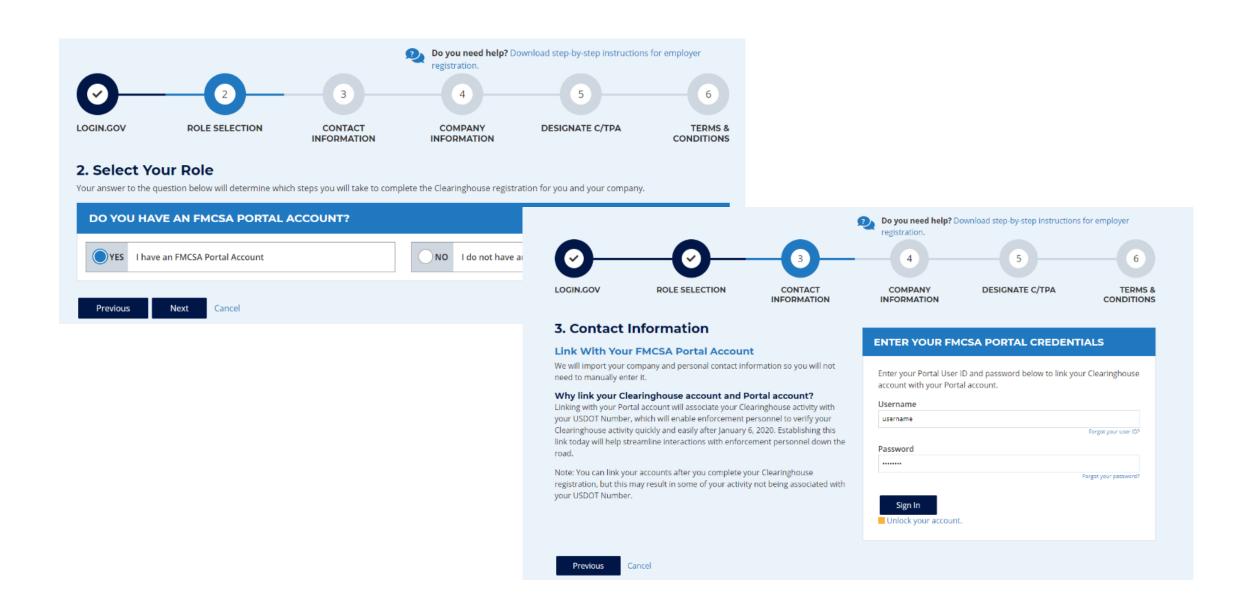


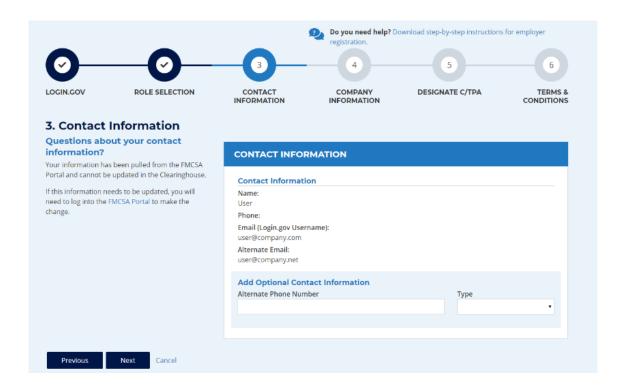


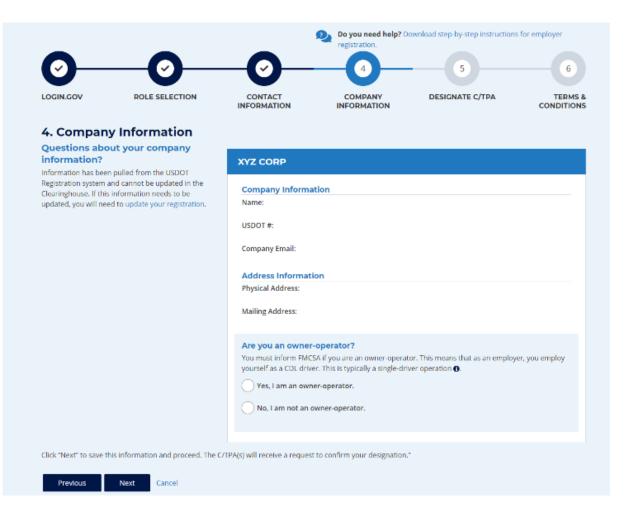


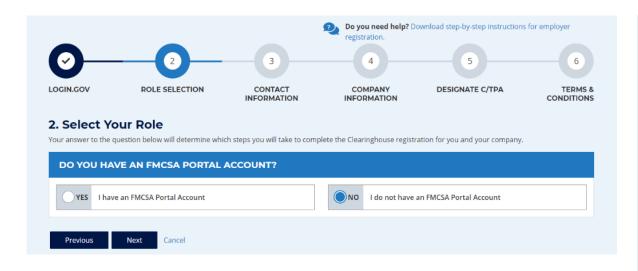


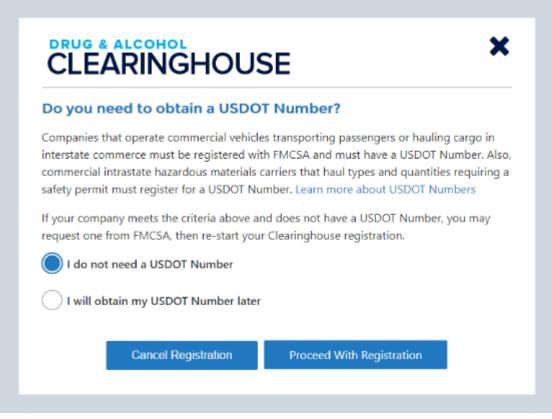














### 2. Select Your Role

### Will you manage your employer's users in the Clearinghouse?

By completing this registration, you will become your employer's Clearinghouse Administrator. This means you will be able to add or remove users who will use the Clearinghouse on your employer's behalf.

Employers can also invite users who will serve in an Assistant role. If you are not authorized to be your employer's Clearinghouse Administrator, do not complete this registration. Contact your employer's Clearinghouse Administrator and request that he or she send you an invitation to complete your Clearinghouse registration as an Employer Assistant.



### Are you the Clearinghouse Administrator?

Yes, I am my employer's Clearinghouse Administrator.

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