

FMCSA CLEARINGHOUSE POLICY AND PROCEDURES FOR CDL EMPLOYEES
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SECTION 5.16.1

The City of Avon (“Employer”) regards the illegal use of drugs and the abuse of alcohol as serious problems. In addition to compliance with U.S. DOT Regulations regarding drug and alcohol testing for CDL holders, the Employer must participate in the required Federal Motor Carrier Safety Administration Clearinghouse as required by 49 C.F.R. 382.701 to 382.727. To that end the Employer adopts the following policies.

1. Definitions:

- a. FMCSA Clearinghouse. The online databased maintained by the Federal Motor Carrier Safety Administration for purposes of reporting and searching for drug and alcohol test results of CDL holders under 49 C.F.R. 382.701 to 382.727.
- b. Clearinghouse Administrator. The employee or entity (i.e. consortium / third party administrator) designated by the Employer to conduct full/limited inquiries of the FMCSA Clearinghouse and report any and all information necessary to comply with 49 C.F.R. 382.701 to 382.727.
- c. Fully Query. A search of the FMCSA clearinghouse for the full drug/alcohol test record of a current or prospective employee who holds a CDL license.
- d. Limited Query. A limited search of the FMCSA Clearinghouse intended to reveal a potential result to be followed up on by the Employer through a Full Query. The Employer will conduct a full query in any instance where a limited inquiry reveals a result on the CDL holder’s records and will conduct said full query after obtaining electronic consent from the prospective/current employee to conduct a full query for all records in the FMCSA Clearinghouse.
 - i. In the event a limited query reveals a record for a prospective/current employee a full query must be conducted within twenty-four (24) hours or before the employee can perform safety sensitive functions.
- e. Prohibitions. The Employer will not allow a driver to perform any safety sensitive function if the results of a Clearinghouse query demonstrates that the driver:
 - i. has a verified positive, adulterated, or substituted controlled substances test result;
 - ii. has an alcohol confirmation test with concentration of 0.04 or higher;
 - iii. has refused to submit to a test in violation of § 382.211;
 - iv. or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following

an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213.

- f. Exception to Prohibitions. As an exception to Subsection (e) above, a CDL holder may be allowed to perform safety sensitive duties where a query of the Clearinghouse demonstrates:
 - i. That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in DOT Rules; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
 - ii. That, if the driver has not completed all follow-up tests as prescribed by the SAP and the driver has completed the SAP evaluation, referral, and education/treatment process set forth by DOT regulations and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

2. General Requirements

- a. Creation of Clearinghouse Administrator. The Employer designates a consortium/third party administrator (currently Mercy Health), as the Clearinghouse Administrator for the Employer. The Clearinghouse administrator may be assisted by “Clearinghouse Assistants” as designated in writing by the Clearinghouse Administrator.
- b. Pre-employment query required. After January 6, 2020, the City of Avon will not employ a driver subject to controlled substances and alcohol testing under this part to perform a safety-sensitive function without first conducting a pre-employment full query of the clearinghouse to obtain information about whether the driver:
 - i. has a verified positive, adulterated, or substituted controlled substances test result;
 - ii. has an alcohol confirmation test with a concentration of 0.04 or higher;
 - iii. has refused to submit to a test in violation of § 382.211;
 - iv. or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.
- c. Annual query required. The Employer will conduct a query of the Clearinghouse at least once (1) per year for information for all current employees subject to

controlled substance and alcohol testing under this part to determine whether information exists in the Clearinghouse about those employees. The annual query will be conducted through a limited query. In the event an annual query reveals a record the Clearinghouse Administrator will conduct a full query.

- d. Recordkeeping. The Employer will maintain and retain for three (3) years a record of each query and all information received in response to each query made. Effective January 6, 2023, maintaining a valid FMCSA Clearinghouse account fulfills the recordkeeping requirement.
3. Duties of Clearinghouse Administrator. The Employer's Clearinghouse Administrator shall perform the following duties:
 - a. Obtaining signed consents from all prospective/current employees sufficient for the Clearinghouse Administrator to conduct limited queries, and if necessary, full queries.
 - b. Pre-employment full queries of all new hire employees holding a CDL license (This shall include paper/background check inquiries to be conducted until January 6, 2023 so as to comply with current DOT regulations)
 - c. Annual queries of all current employees holding CDL licensure.
 - d. Queries of current employees where a limited query conducted for the annual CDL check reveals a result requiring a follow-up full query as defined above.
 - e. Reporting within three (3) business days items to the FMCSA Clearinghouse information required under 49 C.F.R. 382.705(b), including but not limited to:
 - i. An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
 - ii. A negative return-to-duty test result;
 - iii. A refusal to take an alcohol test pursuant to 49 CFR 40.261;
 - iv. A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
 - v. A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311.

FORM 11.9.4

City of Avon

**General Consent for Limited Queries of the Federal Motor Carrier Safety Administration
(FMCSA) Drug and Alcohol Clearinghouse**

I, _____ (Driver Name), hereby provide consent to the City of Avon to conduct a limited query of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

I understand that if the limited query conducted by the City of Avon indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the City of Avon without first obtaining additional specific consent from me. In that instance I will be required to give consent for the City of Avon to conduct a full query of the FMCSA Clearinghouse.

I further understand that if I refuse to provide consent to the City of Avon to conduct a limited query of the Clearinghouse, the City of Avon must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

I understand that I have the right to revoke this authorization at any time in writing by notifying the City of Avon. I understand that the revocation is only effective after it is received and logged by the City of Avon Service Director or designee. I understand that any use or disclosure made prior to the revocation under this authorization will not be affected by a revocation.

I understand that this authorization to conduct limited inquiries (regardless of the number of times) of the Clearinghouse will expire when my employment with the City of Avon terminates. I understand that my continued employment may be subject to my agreement to this authorization and the ability of the City of Avon to conduct limited (and if necessary full queries) of the Clearinghouse.

I understand that after January 6, 2020, the City of Avon will be required to report any violations of DOT drug testing rules to the Clearinghouse. I understand that the City of Avon may be required under the regulations to report violations of DOT drug testing rules after my employment is terminated to comply with FMCSA rules.

I understand that I am entitled to receive a copy of this authorization.

Employee Signature

Date