



## Drug Testing

The trucking industry will continue to maintain our zero-tolerance policy toward drugs and alcohol, even as various U.S. states and Canada legalize marijuana. TCA supports federal requirements for all interstate and intrastate truck drivers to undergo tests for drug and alcohol use, including pre-employment testing, testing for a reasonable cause, post-accident testing, random testing, and optional testing.

### Drug & Alcohol Clearinghouse

The Federal Motor Carrier Safety Administration (FMCSA) Drug & Alcohol Clearinghouse was mandated as a part of the Moving Ahead for Progress in the 21st Century Act (MAP-21), a transportation spending bill which passed through Congress in 2012. The Clearinghouse final rule went into effect in January 2017, with full compliance effective in January 2020. The program has established new reporting requirements in terms of testing, with FMCSA-regulated employers and other drug testing authorities now mandated to report to the Clearinghouse any adverse drug and alcohol testing results.

- Employers must “query” the Clearinghouse for covered drivers both for pre-employment screenings and for annual verifications.
- Additionally, state driver’s licensing agencies must query the Clearinghouse when a state-licensed driver obtains, renews, upgrades or transfers his/her commercial driver’s license (CDL).
- The National Transportation Safety Board (NTSB) can access the Clearinghouse when it is investigating a crash and needs information on the driver involved.
- All employers of CDL drivers must purchase a query plan in the Clearinghouse.
  - The flat per query rate is \$1.25, with bundle plans available ranging from 1 to 7,500 queries. An unlimited query plan is also available for \$24,500 per year.

### Hair Testing

TCA supports moving forward with regulations permitting hair testing as an acceptable alternative to urine testing. Once this is approved, hair testing results can be entered into the Drug & Alcohol Clearinghouse.

- Section 5402 of the Fixing America’s Surface Transportation (FAST) Act directed the Department of Health and Human Services (HHS) to issue guidelines for hair testing as a method to detect drug abuse.
- After these guidelines are adopted, FMCSA can move forward with a notice and comment rulemaking period to permit hair testing as an acceptable alternative to urine testing.
- Unfortunately, HHS has been painstakingly slow in moving forward with these guidelines, even after repeated urging from industry, Congress, and the White House. The industry still has not seen any progress on this issue.

- The delay can partially be attributed to HHS expanding the hair testing regulation beyond just transportation to a full federal workplace employee standard. Such a standard would apply to all federal agencies and the workers they regulate, should those agencies decide to do drug testing.

One of the major benefits to hair testing is that instead of simply showing an offender's drug use over the previous two to three days like a typical urinalysis, testing hair follicles demonstrates drug use going back a full 90 days.

- Hair testing is also better at detecting lifestyle drug users and opioid addicts.
- Other countries, such as Brazil, already require hair testing for truck drivers and have found the measures to be successful in removing more drug users from the driving population.

Critics are quick to point out that the potential downsides to conducting this more extensive test.

- Hair testing has been shown to occasionally produce false positive results because drug residue found on common items like dollar bills or second-hand marijuana smoke can be absorbed into the hair, even if the individual is not using these drugs.
- More than 90 strands of hair that are at least an inch-and-a-half long and cut as close to the roots as possible are needed to conduct the test.
  - Certain religious groups, including Sikhs, oppose hair testing as a violation of their beliefs, which prohibit them from cutting their hair.
- Additionally, these tests may lead to discriminatory results as thicker, darker hair retains a drug's chemical markers for longer when compared to thinner, lighter hair.

## **Legislation**

TCA supports S. 2979, the Preventing Opioid and Drug Impairment in Transportation Act. This bill, introduced by Senate Commerce Committee Chairman Roger Wicker (R-MS), instructs the Department of Transportation to conduct a study regarding the accuracy of the onsite oral fluid screening technology available today and ways to improve this technology moving forward. While the language does not go as far as creating mandates for onsite, or "roadside," oral fluid testing, the requested study will help establish a baseline understanding of what is available in the market today.