

public of the selection made for the one upcoming vacancy representing environmental concerns. No selection was made for the existing opening representing Native American tribal concerns so this notice also invites persons interested in that opening to apply.

**DATES:** Persons interested in applying for the NPOAG opening representing Native American concerns will need to apply by October 31, 2022.

**FOR FURTHER INFORMATION CONTACT:** Keith Lusk, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, 777 S Aviation Boulevard, Suite 150, El Segundo, CA 90245, telephone: (424) 405-7017, email: *Keith.Lusk@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106-181, and subsequently amended in the FAA Modernization and Reform Act of 2012. The Act required the establishment of the advisory group within one year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides “advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.”

**Membership**

The current NPOAG is made up of one member representing general

aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG are as follows:

Murray Huling representing general aviation; John Becker, James Viola, and Eric Lincoln representing commercial air tour operators; Dick Hingson, Les Blomberg, Robert Randall, and John Eastman representing environmental interests; and Carl Slater represents Native American tribes with one current opening.

**Selection**

Robert Randall, a member of the National Parks Conservation Association, has been selected for another 3 year term to represent environmental concerns. NPOAG members’ 3-year terms commence on the publication date of this **Federal Register** notice. No selection was made for the additional opening to represent Native American concerns. The FAA and NPS invite persons interested in applying for this remaining opening on the NPOAG to contact Mr. Keith Lusk (contact information is written above in **FOR FURTHER INFORMATION CONTACT**). Requests to serve on the NPOAG must be made to Mr. Lusk in writing and postmarked or emailed on or before October 31, 2022. The request should indicate whether or not you are a member of, or have an affiliation with, a federally recognized Native American tribe. The request should also state what expertise you would bring to the NPOAG as related to issues and concerns with aircraft flights over national parks and/or tribal lands. The term of service for NPOAG members is 3 years. Current members may re-apply for another term.

On August 13, 2014, the Office of Management and Budget issued revised guidance regarding the prohibition against appointing or not reappointing federally registered lobbyists to serve on advisory committees (79 FR 47482).

Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in El Segundo, CA, on September 8, 2022.

**Keith Lusk,**

*Program Manager, Special Programs Staff, Western-Pacific Region.*

[FR Doc. 2022-19820 Filed 9-13-22; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

[Docket No. DOT-OST-2022-0029]

**Privacy Act of 1974; Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA); DOT/FMCSA 010—Drug and Alcohol Clearinghouse (Clearinghouse)**

**AGENCY:** Federal Motor Carrier Safety Administration, Department of Transportation

**ACTION:** Notice of a modified system of records notice.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA) proposes to modify and reissue an existing system of records notice titled “DOT/FMCSA 010, Drug and Alcohol Clearinghouse (Clearinghouse)”. This system of records allows FMCSA to collect and maintain records on commercial motor vehicle (CMV) drivers subject to the commercial driver’s license (CDL) and commercial learner’s permit (CLP) regulations who have received verified positive DOT drug or alcohol test results, refuse such testing, or otherwise violate FMCSA’s drug and alcohol use prohibitions. The Clearinghouse also collects and maintains records on the completion of substance abuse programs as part of the return-to-duty process, as well as forms evidencing drivers’ consent to the release of information. In addition, the Clearinghouse collects and maintains records of queries of the system conducted by employers, or service agents acting on their behalf, and State Driver Licensing Agencies (SDLAs). The information in this system is used to enhance compliance with drug and alcohol use and testing regulations by identifying drivers who have committed drug and alcohol violations that render them ineligible to operate a CMV.

**DATES:** Written comments should be submitted on or before October 14, 2022. The Department may publish an amended SORN in light of any comments received. This new system will be effective October 14, 2022.

**ADDRESSES:** You may submit comments, identified by docket number 2022-0029 by one of the following methods:

- **Federal e-Rulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Department of Transportation Docket Management, Room W12-140, 1200 New Jersey Ave. SE, Washington, DC 20590.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Instructions:* You must include the agency name and docket number 2022–0029. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008, (73 FR 3316–3317).

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** For system-related questions please contact Bryan Price, Chief, Drug and Alcohol Programs Division, Office of Safety Programs, Federal Motor Carrier Safety Administration, Email: [clearinghouse@dot.gov](mailto:clearinghouse@dot.gov), Tel. (202) 366–0928. For privacy questions, please contact Karyn Gorman, Acting Departmental Chief Privacy Officer, Department of Transportation, S–83, Washington, DC 20590, Email: [privacy@dot.gov](mailto:privacy@dot.gov), Tel. (202) 366–3140.

#### **SUPPLEMENTARY INFORMATION:**

##### **Notice Updates**

This Notice includes both substantive changes and non-substantive changes to the previously published Notice.<sup>1</sup> The substantive changes have been made to the authority, contesting record procedures, and routine uses. The non-substantive changes have been made to background, system manager, purposes, categories of individuals, categories of records, record source categories,

policies and practices for retrieval of records sections, as well as revisions to align with the requirements of the Office of Management and Budget (OMB) Circular No. A–108 and ensure consistency with other Notices issued by the Department of Transportation.

This modified system will be included in the DOT inventory of record systems.

#### **I. Background**

In accordance with the Privacy Act of 1974, FMCSA is modifying and reissuing a system of records titled “DOT/FMCSA 010—Drug and Alcohol Clearinghouse (Clearinghouse).” This system collects information related to violations of the Agency’s drug and alcohol testing program regulations committed by CMV operators subject to the CDL and CLP regulations set forth in 49 CFR part 383. FMCSA published the initial system of records notice for the Clearinghouse on October 22, 2019 (84 FR 56521). The records are collected and maintained for the purposes of:

- informing current and prospective employers of CMV drivers whether the driver is prohibited from operating a CMV due to drug and alcohol program violations;
- informing SDLAs and Motor Carrier Safety Assistance Program (MCSAP) enforcement officers whether the driver is prohibited from operating a CMV due to drug and alcohol program violations;
- providing drug and alcohol program violation information, upon request from the National Transportation Safety Board (NTSB), about a driver involved in a crash under investigation by the NTSB.

The Clearinghouse is a tool FMCSA, employers, prospective employers, and SDLAs use to identify drivers who are prohibited from operating a CMV, based on DOT drug and alcohol program violations, and ensure that such drivers receive the required substance abuse evaluation and treatment before operating a CMV on public roads. The requirements and procedures for use of the Clearinghouse by employers, drivers and specified service agents are set forth in 49 CFR part 382, subpart G.

Employers or their designated service agents (Consortia/Third-Party Administrators (C/TPA)) are required to query the Clearinghouse using the CDL number of the driver to search for any drug and alcohol program violations before hiring a prospective driver, and at least annually for all currently employed drivers. Queries of the Clearinghouse fall into one of two categories: limited or full. Both limited and full queries require a driver’s consent before any information can be

released about that driver. A limited query of the Clearinghouse will inform the employer or C/TPA whether any violation-related information about the driver exists; however, a limited query does not result in the release of any detailed violation information. To view detailed violation information contained in the Clearinghouse, the employer or C/TPA must perform a full query. Once a driver’s specific consent is obtained, a full query returns the following information about the driver:

- Driver details
- Information about the driver’s employer who ordered the test or reported a violation to the Clearinghouse
- Test details, including the type of test, violation details, and test result
- Information about who entered the test result
- Return-to-duty (RTD) activity information

When an employer queries the driver as a pre-employment check, a full query must be conducted. In accordance with 49 CFR 382.701(c), if additional information is entered on the driver within 30 days of the pre-employment query, the Clearinghouse sends an electronic notification to the employer or C/TPA indicating additional information has been added to a previously queried record. The employer must log in to the Clearinghouse and obtain specific consent from the driver before the details of this newly reported information are disclosed. An annual query may be conducted as either a limited query or a full query.

A limited query requires a driver’s general consent, which may be effective for an indefinite period (e.g., the duration of employment) and for an unlimited number of queries. Once the employer obtains general consent, the employer will submit the query and receive a notification from the Clearinghouse indicating whether the Clearinghouse contains drug or alcohol violation-related information on the queried driver. If the limited query indicates that the Clearinghouse contains information on the driver, the employer or C/TPA must conduct a full query.

When conducting a full query, the employer or C/TPA must obtain specific consent from the driver by logging into the Clearinghouse and requesting that the driver provide consent to release full query results. To grant or decline specific consent, the driver must register in the Clearinghouse to establish an account. If the driver provides consent, the employer will receive notification of

<sup>1</sup> 84 FR 56521 (Oct. 22, 2019).

the consent via email. The employer logs into their account to view the detailed information for the queried driver.

In accordance with the Clearinghouse regulations if an employer is unable to obtain either general consent from a driver for a limited query, or specific consent for a full query, the employer must remove the driver from performing safety-sensitive functions, including operating a CMV, as described below.

On October 7, 2021, FMCSA published a final rule entitled "Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial's Driver's License" (86 FR 55718) (2021 final rule). The rule requires SDLAs, prior to completing a commercial licensing transaction, to access and use driver-specific information from the Clearinghouse to determine whether, pursuant to 49 CFR 382.501(a), a driver is prohibited from operating a CMV due to drug and alcohol program violations. The requirements and procedures for SDLAs' use of the Clearinghouse are set forth in 49 CFR part 383. If the applicant is prohibited from operating, the SDLA must not complete the licensing transaction, resulting in non-issuance of the CLP or CDL. The rule also requires that SDLAs downgrade the CLP or CDL of any driver prohibited from operating a CMV and revises how reports of actual knowledge of drug or alcohol use, based on the issuance of a citation for DUI in CMV, will be maintained in the system. Under then-current regulations, drivers could request the removal of an employer's report of actual knowledge of use, based on a traffic citation for driving a CMV under the influence of controlled substances or alcohol, if the citation did not result in the driver's conviction. The 2021 final rule amended 49 CFR 382.717 so that drivers can no longer request removal of the citation but may add documentary evidence of non-conviction to their Clearinghouse record.

The following substantive changes have been made to this Notice:

1. *Authority*: This Notice updates the authorities to add sections 31305(a), 31308, and 31311 of title 49, United States Code, on which FMCSA relies to implement requirements pertaining to the SDLAs' use of the Clearinghouse, and to add the regulatory authorities authorizing access to and uses of the Clearinghouse as set forth in 49 CFR part 382, subpart G, and 49 CFR part 383.

2. *Contesting Record Procedures*: This Notice updates contesting record procedures to conform with the

following regulatory change to 49 CFR 382.717: Drivers may no longer request removal of an actual knowledge violation based on the issuance of a citation for DUI in a CMV when the citation does not result in a conviction, but they can request that documentary evidence of non-conviction be added to their Clearinghouse record.

3. *Routine Uses*: This Notice updates routine uses to add four system-specific routine uses, as described below.

In this Notice, FMCSA adds four new system-specific routine uses to support enforcement of drug and alcohol use and testing regulations and to implement regulatory requirements pertaining to States (SDLAs).

The first new routine use allows SDLAs to receive notification from FMCSA of a CMV driver's operating status (*i.e.*, prohibited or not prohibited). This routine use enables the SDLA to initiate a downgrade of the CLP or CDL of any driver prohibited from operating a CMV due to drug and alcohol program violations, as required by 49 CFR 383.73(q). It will also enable the SDLA to restore the commercial driving privilege to the driver's license following the driver's completion of the return-to-duty process or to correct an error, as required by 49 CFR 383.73(q)(2) and (3), respectively.

The second new routine use allows notification to employers when new information has been added to the Clearinghouse record of a CMV driver about whom the employer has either queried the Clearinghouse, or reported information to the Clearinghouse, in the past 12 months (*i.e.*, since the preemployment query or last annual query). This routine use alerts employers that new information about a driver they may employ was reported to Clearinghouse by another employer or prospective employer. If the driver is still employed, the employer must log in to the Clearinghouse and obtain specific consent from the driver before the details of this newly reported information will be disclosed.

The third new routine use allows employers, confirmed by FMCSA to currently employ CMV drivers prohibited under 49 CFR 382.501(a) from operating a CMV due to drug and alcohol program violations reported to the Clearinghouse by another employer or prospective employer, to be notified of the driver's prohibited operating status. The employer must log in to the Clearinghouse and obtain specific consent from the driver before details of this newly reported violation will be disclosed. However, upon receiving notification that the driver is prohibited from operating a CMV, the employer

must not allow the driver to perform safety-sensitive functions, in accordance with 49 CFR 382.501(b).

The fourth new routine use allows employers who are notified by FMCSA of a driver's disqualification under 49 CFR 391.41(b)(12) for prohibited controlled substances use to receive details of the positive test result violation from the Clearinghouse. Under this routine use, FMCSA will provide the required employer notification of the driver's disqualification under 49 CFR 391.41(b)(12) for CDL or CLP holders who continue to operate a CMV in violation of 49 CFR 382.501(a).

The new routine uses are compatible with the purpose for which the information was collected, directly furthering the goals of 49 U.S.C. 31306a, to improve roadway safety and enhance compliance with drug and alcohol use and testing regulations.

The following non-substantive changes have been made to the background, system manager, purposes, categories of individuals covered by the system, categories of records in the system, record source categories, and policies and practices for retrieval, to improve the readability and transparency of this Notice:

1. *Background*: This Notice updates background to add information about FMCSA's recent amendments to 49 CFR parts 382 and 383. This Notice also updates the background to eliminate redundancies in the description of the limited and full query processes as set forth in the previous Notice and to conform the description of CMV drivers subject to FMCSA's drug and alcohol use and testing regulations to existing regulatory text in 49 CFR 382.103(a). These updates are made to improve clarity and do not reflect any change in either the Clearinghouse query processes or the population of CMV drivers about whom information is maintained in the System.

2. *System Manager*: This Notice updates the system manager to include contact information for FMCSA's Drug and Alcohol Programs Division, Office of Safety Programs and to delete contact information for the Compliance Division, Office of Enforcement and Compliance. This change reflects a reorganization within FMCSA and is compatible with the purpose of this system of records.

3. *Purposes*: This Notice updates the purposes to add specific references to FMCSA's MCSAP partners and to SDLAs to improve the clarity of the description. In addition, this Notice updates the purposes to conform the description of CMV drivers subject to FMCSA's drug and alcohol use and

testing regulations to existing regulatory text in 49 CFR 382.103(a). The previous Notice described the CMV drivers as “CLP and CDL holders”; this Notice changes that reference to “CMV drivers who are subject to the CDL and CLP requirements of 49 CFR part 383.” FMCSA makes this update to improve clarity; it does not reflect any change in the population of CMV drivers about whom information is maintained in this System.

4. Categories of Individuals: This Notice updates categories of individuals to conform the description of CMV drivers subject to FMCSA’s drug and alcohol use and testing regulations to existing regulatory text in 49 CFR 382.103(a). The previous Notice described the CMV drivers as “CLP and CDL holders”; this Notice changes that reference to “CMV drivers who are subject to the CDL and CLP requirements of 49 CFR part 383.” FMCSA makes this update to improve clarity; it does not reflect any change in the population of CMV drivers about whom information is maintained in this System.

5. Categories of Records: This Notice updates categories of records to conform the description of CMV drivers subject to FMCSA’s drug and alcohol use and testing regulations with existing regulatory text in 49 CFR 382.103(a). The previous Notice described the CMV drivers as “CLP and CDL holders”; this Notice changes that reference to “CMV drivers who are subject to the CDL and CLP requirements of 49 CFR part 383.” FMCSA makes this update to improve clarity; it does not reflect any change in the population of CMV drivers about whom information is maintained in this System.

6. Record Source Categories: This Notice updates record source categories to conform the description of CMV drivers subject to FMCSA’s drug and alcohol use and testing regulations with existing regulatory text in 49 CFR 382.103(a). The previous Notice described the CMV drivers as “CLP and CDL holders”; this Notice changes that reference to “CMV drivers who are subject to the CDL and CLP requirements of 49 CFR part 383.” FMCSA makes this update to improve clarity; it does not reflect any change in the population of CMV drivers about whom information is maintained in this system.

7. Policies and Practices for Retrieval: To improve clarity, this Notice updates policies and practices to replace “CDL holder” with “CMV driver” and to specify that State issuance pertains to CDLs and CLPs.

## II. Privacy Act

The Privacy Act governs the means by which the Federal Government agencies collect, maintain, use, and disseminate individuals’ records. The Privacy Act applies to information that is maintained in a “system of records.” A “system of records” is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act extends rights and protections to individuals who are U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides a covered person with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act. In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

Below is the description of the Clearinghouse System of Records. In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this modified system of records to the OMB and to Congress.

### SYSTEM NAME AND NUMBER:

DOT/FMCSA 010– Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse).

### SECURITY CLASSIFICATION:

Unclassified.

### SYSTEM LOCATION:

Records are maintained in a FedRAMP-certified third-party cloud environment. The contracts are maintained by DOT at 1200 New Jersey Avenue SE, Washington, DC 20590.

### SYSTEM MANAGER(S):

Chief, Drug and Alcohol Programs Division, Office of Safety Programs, FMCSA, U.S. DOT, 1200 New Jersey Avenue SE, Washington, DC 20590; [clearinghouse@dot.gov](mailto:clearinghouse@dot.gov).

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 31305(a), 31306, 31306a(a)(1), 31308, and 31311; CFR part 382 subpart G; and 49 CFR part 383.

### PURPOSE(S) OF THE SYSTEM:

The purpose of the Clearinghouse is to: (1) improve compliance with the DOT’s controlled substances and

alcohol testing program applicable to CMV drivers who are subject to the CDL and CLP requirements of 49 CFR part 383; and (2) enhance the safety of U.S. roadways by reducing crashes and injuries involving drivers violating alcohol or controlled substances regulations (49 U.S.C. 31306a(a)(2)). FMCSA and its MCSAP partners, motor carrier employers, and State Driver Licensing Agencies use information in the Clearinghouse records to identify drivers who are prohibited from operating a CMV and must receive the required evaluation and treatment before resuming safety-sensitive functions. Safety-sensitive functions are defined in 49 CFR 382.107 as the time from when a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include driving a CMV on public roads.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals within this system include: CMV drivers subject to the CDL and CLP requirements of 49 CFR part 383, Medical Review Officers (MRO), Substance Abuse Professionals (SAP), employers, and Consortia/Third-Party Administrators (C/TPA).

### CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in the system include:

The following information about CMV drivers is subject to the CDL and CLP requirements of 49 CFR part 383:

- Name.
- Contact Information including physical address, phone number(s) and email address.
- Date of birth.
- Current and previous CLP or CDL license number, state of issuance, and expiration date.
- Drug or alcohol test results and violation information including employer name, address, and USDOT#, as applicable.
- CMV driving eligibility status.
- Driver Substance Abuse Professional (SAP) selection including SAP name, address and phone number, as applicable.
- Actual Knowledge Report Information, including violation details, documentation to support the allegation and certificate of service to the employee, as applicable.
- Failure to appear and refusal to test detail information, including documentation regarding notification of test requirement, documentation of termination or resignation and certificate of service to the employee, as applicable.

- Return to duty (RTD) eligibility date and negative test result. A negative RTD test result allows the driver to resume operation of a CMV and other safety-sensitive functions.

- Follow-up testing plan completion information.

- Query information including who requested the query and when the query was conducted.

- Query consent information including the driver's approval or refusal.

Information about MROs and SAPs as specified in 49 CFR 382.711(c) to include:

- Contact information including name, email address, phone number(s), office location addresses and applicable qualifications as per 49 CFR part 40.

Information about employers, designated agents and C/TPAs as specified in § 382.711(b) and § 382.711(d) to include:

- Contact information including name, email address, phone number(s), office location addresses.

- USDOT #, as applicable.

#### RECORD SOURCE CATEGORIES:

Records are obtained from MROs for CMV drivers subject to the CDL and CLP requirements of 49 CFR part 383 who have confirmed positive tests or test refusals. Motor carrier employers will report actual knowledge of use, alcohol confirmation test results, or test refusals. Records regarding completion of required RTD processes are obtained from SAPs and employers. Records are obtained from employers who request full query consent of drivers and the approval or rejection of the consent from the drivers. Registration information records are obtained from CMV drivers subject to the CDL and CLP requirements of 49 CFR part 383, MROs, SAPs, employers, and their designated agents when an authorized user registers for the Clearinghouse and creates a new account or when updating previous account information.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

#### System Specific Routine Uses

1. To Motor Carrier Safety Assistance Program (MCSAP) partner agencies, for use during investigations, roadside

inspections and safety audits of motor carriers. This routine use enables the MCSAP agencies to enforce the current prohibition against operating a CMV, or performing other safety-sensitive functions, due to drug and alcohol program violations.

2. To State Driver's Licensing Agencies for the purpose of verifying a driver's qualification to operate a CMV prior to completing any licensing transactions, including issuance, renewal, transfer, or upgrade of any a CLP or CDL (as mandated by 49 U.S.C. 31311(a)(24) and 31306a(h)(2)).

3. To the NTSB, upon request, when a driver is involved in a crash under investigation by the NTSB (as mandated by 49 U.S.C. 31306a(i)).

4. To State Driver Licensing Agencies, for the purpose of initiating a downgrade of the CLP or CDL of any driver prohibited from operating a CMV due to drug and alcohol program violations or reinstating the CLP or CDL when the driver is no longer prohibited from operating, as required by 49 CFR 383.73(q).

5. To employers who have either queried the Clearinghouse, or reported information to the Clearinghouse, about a CMV driver in the past 12 months, when new information about the driver has been added to the Clearinghouse by another employer. This routine use enables employers to comply with the current prohibition against allowing a driver to operate a CMV, or perform other safety-sensitive functions, due to drug and alcohol program violations.

6. To employers who currently employ a CMV driver prohibited from operating a CMV due to a drug and alcohol program violation reported to the Clearinghouse by another employer. This routine use enables current employers to comply with the prohibition against allowing a driver to operate a CMV, or perform other safety-sensitive functions, due to drug and alcohol program violations.

7. To employers notified by FMCSA that a CDL or CLP holder is disqualified under 49 CFR 391.41(b)(12) for prohibited controlled substances use. Under this routine use, FMCSA will provide the required employer notification of the driver's disqualification under 49 CFR 391.41(b)(12) for CDL or CLP holders who continue to operate a CMV in violation of 49 CFR 382.501(a).

#### Department General Routine Uses

8. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and

whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

- 9a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when—(a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

- 9b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when— (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

10. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry

from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

11. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration (NARA) in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

12. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

13. DOT may disclose records from the system, as a routine use to appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records, (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed

breach or to prevent, minimize, or remedy such harm.

14. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

15. DOT may disclose records from the system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

16. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act.

17. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

18. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

19. DOT may disclose records from the system, as a routine use to another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its

information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system are stored electronically on a contractor-maintained cloud storage service.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records may be retrieved by the following data elements: CMV driver's name, date of birth, license number, and State of issuance of the CLP or CDL.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records will be retained and disposed of in accordance with the records control schedule titled, "Commercial Driver's License Drug and Alcohol Clearinghouse" approved by the NARA on July 23, 2019. The record schedule requires retention for 5 years if the violation is resolved and RTD is completed; after 5 years the records will be transferred to a separate location for archiving for 6 years and then the records will be destroyed. For records that have not had the RTD process successfully completed, they will remain active in the Clearinghouse for 70 years.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Appropriate controls have been imposed to minimize the risk of compromising the information that is being stored and ensuring confidentiality of communications using tools such as encryption, authentication of sending parties, and compartmentalizing databases; and employing auditing software. Clearinghouse data is encrypted at rest and in transit. In addition, the connection between the database and the server is encrypted. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. All personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

**RECORD ACCESS PROCEDURES:**

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request to the System Manager in writing to the address provided, or to the email provided, under “System Manager and Address.” Individuals may also search the public docket at [www.regulations.gov](http://www.regulations.gov) by their name.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DOT component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records. Without this bulleted information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

**CONTESTING RECORD PROCEDURES:**

Individuals seeking to contest the content of any record pertaining to him or her in the system may contact the System Manager following the Privacy Act procedures in 49 CFR part 10, subpart E, Correction of Records.

Drivers may request corrections of administrative errors in their Clearinghouse record using procedures set forth in 49 CFR 382.717. Under these procedures, request for correction are limited to incorrectly reported information, not the accuracy of test results or refusals. Drivers may also request that the following information be removed from their Clearinghouse record: an employer’s report of actual knowledge of use, if the employer’s report does not comply with applicable documentation and notice requirements; or an employer’s report of a failure to appear test refusal, if the employer’s report does not comply with applicable

documentation and notice requirements. Drivers may submit their request for correction or removal under 49 CFR 382.717 electronically through the Clearinghouse or in writing to FMCSA.

Requests for correction under the Privacy Act must conform with regulations set forth in 49 CFR part 10. Your request must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization.

**NOTIFICATION PROCEDURES:**

Individuals seeking to contest the content of any record pertaining to him or her in the system may contact the System Manager following the procedures described in “Record Access Procedures” above.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

A full notice of this system of records, DOT/FMCSA 010—Drug and Alcohol Clearinghouse, was published in the **Federal Register** on October 22, 2019 (84 FR 56521)

Issued in Washington, DC.

**Karyn Gorman,**

*Acting Departmental Chief Privacy Officer.*

[FR Doc. 2022–19779 Filed 9–13–22; 8:45 am]

**BILLING CODE 4910–9X–P**