

May 21, 2014

**Docket FMCSA-2011-0031**

Docket Management Facility (M-30)

U.S. Department of Transportation

West Building

Ground Floor, Room W12-140

1200 New Jersey Avenue, S.E.

Washington, D.C. 20590-0001

**Commercial Driver's License Drug and Alcohol Clearinghouse**

**79 Federal Register 9703, February 20, 2014**

**US Department of Transportation Comprehensive Truck Size and Weight Limits Study  
(CTSW)**

**Comments on Public Input Session, May 29, 2013**

These comments are filed jointly by the Truck Safety Coalition (TSC), Citizens for Reliable and Safe Highways (CRASH), Parents Against Tired Truckers (PATT) and our volunteers, who are the family and friends of truck crash victims and survivors seeking truck safety advances, in response to the Federal Motor Carrier Safety Administration (FMCSA) notice and request for public comment on the proposal to revise the Code of Federal Regulations (CFR), 49 CFR Part 382, to establish the Commercial Driver's License Drug and Alcohol Clearinghouse (clearinghouse), 79 FR 9703 (Feb. 20, 2014). Our member groups and volunteers supported the inclusion of the requirement to establish the drug and alcohol testing clearinghouse in the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) Act. The ability of employers to access information regarding the testing history of commercial motor vehicle (CMV) drivers applying for jobs, and identify commercial driver's license (CDL) drivers who have previously violated alcohol and drug tests will greatly help to advance safety by ensuring that repeated violators are quickly identified and denied employment.

Drivers who have previously violated drug and alcohol testing, and especially those who are repeated violators, pose a significant risk to the driving public. Under the current system, employers are dependent on a system of self-reporting by the CDL drivers of their history of drug and alcohol use. Unless a history of drug and alcohol violations are voluntarily supplied, the employers lack adequate information to avoid hiring these dangerous drivers. Our volunteers have first-hand experience with the deadly outcomes resulting from CDL drivers operation of CMVs under the influence of drugs and alcohol and the dearth of drug and alcohol testing information and oversight under the current system. In many of these crashes, a history of repeated drug and alcohol violations is only revealed after a catastrophic crash resulting in the

loss of life or physical and mental abilities of the driving public occurs and a comprehensive investigation is undertaken. In these crashes, the knowledge that the driver responsible for the crash should never have been on the road in the first place, that there were multiple opportunities to revoke the driver's CDL and take the driver off the road, and that the system played a part in perpetuating the career of an unsafe driver, is an understandable outrage to the families grieving losses and injuries. We recognize that the FMCSA proposed rule is a marked improvement over the current system, and offer a few comments to strengthen the final rule.

Employers should not be limited in their reporting of actual knowledge violations. The proposed rule unnecessarily seeks to reduce employers reporting requirements to those incidents where a driver receives a citation for operating a CMV while impaired, and excludes instances when the employee admits to drug or alcohol use or is directly observed under the influence.

Employers should be required to report information about violations obtained from a driver's previous employer to the clearinghouse. While FMCSA proposes that there is no need to report this information because previous employers are required to report this information during the pre-employment background check, there are far too many opportunities for errors or omissions that would allow a driver's past history of violations to remain hidden. The testing clearinghouse should compile and make available all information relating to past violations.

Drivers' violation records should remain in the clearinghouse for at least five years, even though companies are only required to review the past three years' records. The companies that choose to go beyond minimum safety compliance may review the longer history and find the information useful in their hiring process. Opportunities to go beyond minimum compliance should be supported and not unnecessarily hindered.

TSC, CRASH and PATT support the proposed rule's efforts to require drivers to report violations to all employers, noting its improvement over the current regulation, which does not require notification to all employers. Further enhancements of this effort would include FMCSA notifying all known employers when violations are reported to ensure accurate information is known to every employer.

TSC, CRASH and PATT support a consent that authorizes employers to annually search drug and alcohol testing records for the duration of a driver's employment, in place of the current system which requires employers to obtain written consent each year. This change would streamline the consent process and encourage annual searches. A more detailed search to access specific information would require further written consent. This process would protect the privacy of the driver while reducing the administrative process of the employer.

In conclusion, TSC, CRASH and PATT support a drug and alcohol clearinghouse that contains more testing results and violations, retains the testing results and violations data longer and supports easier access and use by employers. Additional services provided by FMCSA to encourage greater use of and access to testing results and relevant data will help to reduce roadway dangers by ensuring that the most dangerous drivers are not permitted to drive among the American public.

Jennifer Tierney  
Board Member, Citizens for Reliable and Safe Highways  
Member, Motor Carrier Safety Advisory Committee (MCSAC)

Jane Mathis  
Board Member, Parents Against Tired Truckers  
Member, MCSAC

John Lannen  
Executive Director, Truck Safety Coalition  
Member, MCSAC