2020 TRUCKING SAFETY & COMPLIANCE CONFERENCE NW

BROUGHT TO YOU BY ORANGE COMMERCIAL CREDIT

"PREPARING FOR" A SUCCESSFUL AND COMPLIANT TRUCKING FLEET



CDL DRUG AND ALCOHOL CLEARINGHOUSE



CDL DRUG AND ALCOHOL CLEARINGHOUSE THE GOOD



CDL DRUG AND ALCOHOL CLEARINGHOUSE THE GOOD

- Queries work
 - Requesting queries is user friendly, approving consent on the driver side is clear
- Reporting violations works
 - Steps are simple
- Registration is generally stable
 - FMCSA has provided guidance on how to by-pass the Portal linkage, which has dramatically increased the number of registrations.
 - Driver registration works
- Pay.gov works consistently



PROBLEMS WITH DACH



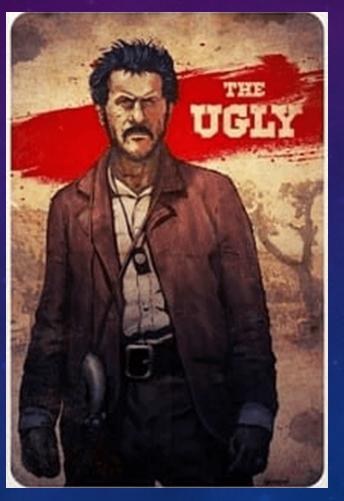
CDL DRUG AND ALCOHOL CLEARINGHOUSE THE BAD



CDL DRUG AND ALCOHOL CLEARINGHOUSE THE BAD

- Site is unstable
 - During certain points of the day, high traffic will crash the site
- CDLIS is having issues
 - Most drivers licenses are being entered, especially states that are compliant with Real ID. States
 that feature special characters (Washington) sometimes work with the character included,
 other times without it. States with dashes (Indiana, Florida) sometimes don't work.
- Carriers are still unaware they need to register
 - Hundreds of carriers we have spoken to had no idea of the rule change
- Employer list isn't user friendly
- Conducting a query isn't user friendly
 - Have to type in the name of the company or USDOT#, and list is in no particular order

CDL DRUG AND ALCOHOL CLEARINGHOUSE THE UGLY



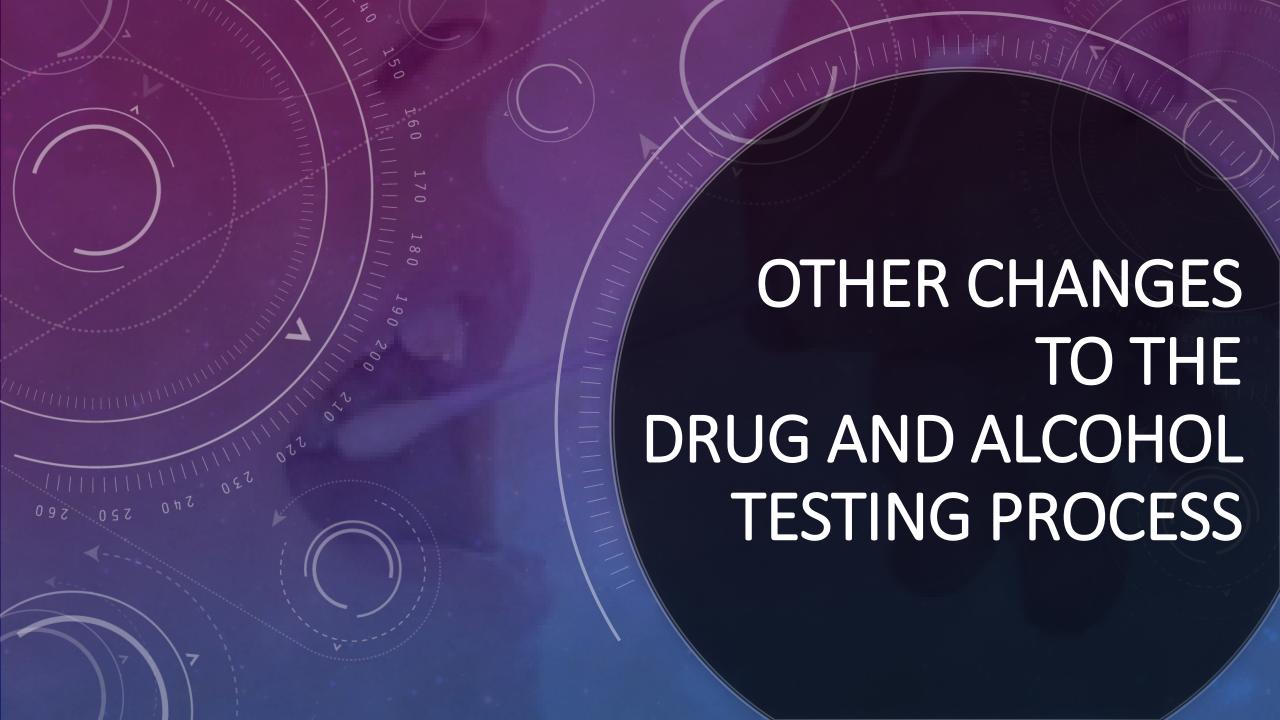
CDL DRUG AND ALCOHOL CLEARINGHOUSE THE UGLY

- Portal very unstable
 - Setting a new portal is hit or miss
 - Support for issues is virtually non-existent
 - Portal team received 11,000 requests in December
 - Using forgot UserID rarely works
 - No word on "chooser" error
 - Some speculation that UserID length can determine whether it glitches out, or if the UserID or email contains a special character
- Clearinghouse support is non-existent
- Intrastate Carriers
 - Most intrastate carriers do not comply with the Biennial Update (MCS-150), so their contact information is often from when they created their authority. In many cases they do not know their DOT PIN, nor can they request it be sent to them because the FMCSA doesn't have an email or cell phone on file.

CDL DRUG AND ALCOHOL CLEARINGHOUSE THE UGLY

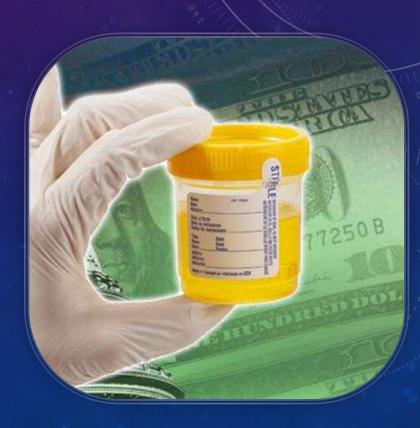
- Portal link deactivated
 - Since mid January, FMCSA has deactivated the link allowing carriers to link portal accounts (also with driver accounts who are Owner/Operators). Often that info is only available after the account has been set up.
- CDLIS not updated
 - Drivers who previously had a CDL in another state, will not have their new CDL recognized.
 - It is not clear if the FMCSA has been effectively communicating to drivers that they need to surrender their previous CDL to DMV.
- Batch query form isn't formatted properly
- Portal bypass has led to mistakes entering company information
 - Companies have been entering their DBA name instead of their legal name, or entering company information instead of their name (at least one company put in their address and I still can't identify it).

QUESTIONS?



FMCSA RANDOM DRUG TESTING RATE INCREASE TO 50%

- Announced in the Federal Register December 27, 2019
 - Move expected for the last two years as private drug testing results have indicated the positive testing rate to be above 1%
 - Quest DTI saw a five percent jump from 2017 (4.2%)
 to 2018 (4.4%), the highest rate since 2004 (4.5%)
- The FMCSA was required to make this change because the data they received showed the positive drug testing rate above 1%
- It will require three consecutive years below 1% before this can be lowered.



WHAT DOES INCREASE MEAN FOR YOU?

Higher Rate = More Drug Tests

- More drivers will be pulled off the road to take random tests
- More time managing your drug test program
- Increases safety on the roads



WHAT ABOUT THE CLEARINGHOUSE?

Clearinghouse Will Catch "Prohibited" Drivers From Job Hopping

"Loophole" Closed:
 Many drivers tested positive and let-go try to switch jobs and hide their positive result (or refusal) with new employers.

Clearinghouse Will Cause Changes to Hiring Process

- Potential new driver needs to register to Clearinghouse
- Driver needs to allow consent for query to be run
- Query needs to come back clean
- Now, pre-employment drug test can be performed

WHY ORAL FLUID DRUG-TESTING?

- Shorter drug-detection window: 2 to 48 hrs
- Observed collection: Saliva samples collected harder for adulterating or substituting a test
- Less invasive testing type
- More versatility for sample to be collected in various settings
- Perfectly situated for post-incident test and offer drug use detection immediately at roadside



FEDERAL ORAL FLUID TESTING COMING SOON

- HHS's oral fluid drug-testing guidance rule, published Oct. 25, 2019 becomes effective Jan. 1, 2020
- These guidelines will allow federal executive branch agencies to collect and test oral fluid specimens as part of their drug-testing programs.
- Implementation Time: 12 to 18 months
 - Certifying labs to administer the tests
 - Training medical review officers to revising federal custody and control forms to developing ways to limit test takers from cheating
 - Under the oral fluid rule, laboratories will be permitted to surprise potential cheaters by alternating between oral fluid and urine tests
- Federal lab-based oral testing permitted in 48 states (Kentucky, Main, and Tennessee, review law carefully)

WHEN MIGHT FMCSA SEE ORAL TESTING?

- DOT will engage in full rulemaking process:
 - Notice of Proposed Rulemaking to revise 49CFR Part 40 to include oral testing
 - Public Comment Period
 - Economic Impact Analysis
 - Review Comments
 - Final Rule Publication, likely early 2021
 - Implementation Period, an additional 6-12 months... so 2022
- The agency said the transition to oral fluid testing is expected to be gradual and steady over the course of four years, when it should plateau to account for 25% to 30% of federal agency drug testing.

WHY HAIR DRUG-TESTING?

- Longer drug-detection window: up to 90 days
- Observed collection: Hair samples collected harder for adulterating or substituting a test
- Federal approval would decrease costs for carriers that currently conduct both urine and hair sample tests, as they would be required to conduct just one of the tests



HAIR TESTING RULE COULD BE PUBLIC IN 2020

- Federal rule would allow carriers to drug test drivers and prospective employees using hair samples
 - Rule first mandated by Congress in a bill passed in 2015
 - 3½ year delay caused by "scientific issues" affecting test results
 - Hair color impact
 - External contamination of hair
 - Two rounds of questions/comments from federal agencies and revisions by advisory board of HHS
 - Currently, "pending review" since June 11, 2019 by the White House Office of Management and Budget

WHEN MIGHT FMCSA SEE HAIR TESTING?

- It can still take years
- If rule becomes public in 2020, FMCSA and ODAPC will engage in full rulemaking process:
 - Notice of Proposed Rulemaking to revise 49CFR Part 40 to include hair testing
 - Public Comment Period
 - Economic Impact Analysis
 - Review Comments
 - Final Rule Publication, maybe end of 2021
 - Implementation Period, an additional 6-18 months, so 2023



QUESTIONS?

























