



DRUG & ALCOHOL CLEARINGHOUSE

Drug and Alcohol Clearinghouse Rule II Presentation – Questions and Answers

November 9, 2021

1. Will notifications to the SDLAs regarding return-to-duty (RTD) and/or violation removal going to be sent in real time?

We will know more about the specifics as we start the development of the technical specifications. We will provide updates as we work through the development process.

2. Is there any way you can add that the driver is prohibited in Aspen? As it stands it does not show up in Aspen and the Inspector would have to run CDLIS or Query Central.

The Aspen developers are aware that when a CDLIS check is conducted via Aspen that the Clearinghouse status is not included. They will be addressing that issue in a future Aspen update.

3. Will Divisions have access to push reports to monitor SDLA responsiveness to removing privileges?

Not currently. It is anticipated that SDLA responsiveness to Clearinghouse prohibitions will be integrated into routine State CDL compliance reviews in the future. Stay tuned for additional information as we get closer to implementation.

4. Is there any due process for the driver who is charged but not convicted of driving under the influence?

In accordance with 382.717(a)(2)(i), the driver will be able to add documentary evidence of non-conviction to their Clearinghouse record. This information will be released to current and prospective employers when they conduct a full query with the driver's consent in the Clearinghouse.

5. If the DMV is now required to run queries and downgrade CDLs with drivers who have violations, will a carrier still be required to run annual queries in the Clearinghouse or will the requirement of obtaining annual MVRs suffice? Will the MVR specifically show that the CDL was downgraded due to a 382 violation?

The SDLAs' query and downgrade requirements are not intended to replace the employer's annual query requirement. Each State will determine whether the reason for the downgrade will be noted on the MVR; this matter is not addressed by the Clearinghouse regulations.



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- 6. What should we do if information about a positive driver, such as RTD information is missing, or a driver's violation has not been reported in the Clearinghouse, or a violation was incorrectly reported in the Clearinghouse?**

Please send the information to the internal email address DACHenforcement@dot.gov so we can research the issue.

- 7. Will a CMV driver convicted of DUI in personal car have the same restrictions as in a CMV?**

A DUI in a personal car is not considered "actual knowledge" as defined in 49 CFR 382.107 and must not be reported to the Clearinghouse.

- 8. Will the States enter drug and alcohol conviction information in the Clearinghouse?**

No, States will not report any violation information to the Clearinghouse. The issuance of a citation for DUI in a CMV is reported to the Clearinghouse by the employer, or their designated C/TPA as an actual knowledge violation.

- 9. Is there a way to see if a driver was notified of the violation in Clearinghouse? Are notifications made by email or phone?**

A driver is notified when information is reported to the Clearinghouse pertaining to that driver. Notifications are not made by phone. The driver will receive an email notification if the individual is registered in the Clearinghouse; otherwise the notification is sent via U.S. mail. FMCSA investigators may contact the Clearinghouse team via the internal email address, DACHenforcement@dot.gov, for more information regarding specific drivers.

- 10. Since the compliance date is November 18, 2024, does that mean FMCSA will begin notifying SDLAs of all drivers with a prohibited status beginning November 18, 2024? Or will the SDLAs begin seeing these notifications now since the Rule became effective on November 8, 2021?**

Notifications will be "pushed" to the SDLAs beginning November 18, 2024. Specific details about how drivers' prohibited status will be pushed to the SDLAs is to be determined. In the meantime, SDLAs may access driver violation information by creating a Clearinghouse account, logging in to the system, and querying a driver's record.

- 11. If a driver tests positive for a pre-employment drug test for another employer, how would the current employer know that their driver is prohibited from performing safety-sensitive functions, specifically if the current employer already conducted their annual queries?**

The current carrier would be aware of a driver's prohibited status by conducting additional queries before the next required annual check, as they are permitted to do under the



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Clearinghouse regulations. The annual query is a minimum requirement. FMCSA is currently considering regulatory changes that would enhance a current employer's ability to determine an employee's prohibited status. Investigators conducting compliance reviews or safety audits may issue a Notification of Driver CMV Operating Prohibition (NODOP) for employers unaware of a driver's prohibited status.

12. If driver gets DUI while operating a CMV, who enters the violation into Clearinghouse?

The violation is reported to the Clearinghouse as an actual knowledge violation by the employer or the C/TPA acting on behalf of the employer.

13. Would it be possible to have testing information available in the Clearinghouse for SIs? This would prevent us from having to contact multiple carriers and multiple testing facilities to track down test results.

Copies of custody and control forms and test result reports are not required by the Rule to be uploaded to the Clearinghouse. If SIs require information that is not included in the violation summary, you will need to contact the employers, MROs, and collection facilities, as applicable.

14. A MRO reported a local police officer to the Clearinghouse for a positive test because the officer also is a CDL holder. The police officer was not in a CDL position at the time of the test. Are MROs being targeted for additional clearinghouse training?

MRO education and outreach is ongoing. We will continue to remind MROs of the violations that should and should not be reported to the Clearinghouse. In order to be covered by FMCSA's drug and alcohol testing regulations, a driver must either be subject to the CDL regulations in 49 CFR part 383 or the CDL requirements imposed by Canada or Mexico and be operating a CMV in commerce in any State.

15. In the future, once a driver is downgraded for driving while prohibited and is caught driving while prohibited/downgrade, will the roadside officer cite both the 392.15 and 383.23 violations?

The roadside officer should cite 392.15 only.

16. If a driver is downgraded due to a 382 prohibition, does the Rule require that the MVR show a reason? Some states may choose to connect the downgrade to a 382 prohibition on the MVR and other states might not. This would affect consistency.

The Clearinghouse statute specifically leaves it up to the States to decide what specific information will be included on the MVR.



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- 17. Providing clarification regarding a previous question about investigator access to history information. When a driver tests positive after starting or completing the RTD process; an investigator cannot see the non-completed RTD or follow-up information. Can this information be available for investigators?**

Since the RTD process has been restarted for the current violation, the information cannot be viewed in the Clearinghouse. Please reach out to the Clearinghouse team if additional information is needed on a particular driver.

- 18. With the ELDT rule becoming effective, did the Clearinghouse Rule II change any guidance with driver training schools where student drivers are not employees of a school?**

No, the ELDT regulations do not impact how driver training schools and driver training students interact with the Clearinghouse.

Student drivers, not affiliated to a motor carrier, should register in the Clearinghouse as a student driver. They are responsible for conducting a pre-employment query as well as meeting all other drug and alcohol program requirements for both employers and drivers. For more information, please go to <https://clearinghouse.fmcsa.dot.gov/Resource/Index/User-Roles-Student-Driver-Training-Provider>.

- 19. Will we be able to download a copy of the presentation?**

Presentation was distributed.

- 20. Will the SDLA be notified by FMCSA when a driver becomes prohibited in the Clearinghouse and not only when the driver is renewing, upgrading, etc.?**

Yes, the SDLA will be notified when a driver becomes prohibited, when a driver is no longer prohibited, and when a violation has been removed due to an administrative error or in accordance with the Privacy Act.

- 21. Will DUI charges include both alcohol and drug?**

Yes, both alcohol and controlled substances are included.

- 22. If a driver submits documentation of non-conviction, will the driver still need to go through the RTD if they have not yet gone through the RTD process?**

Yes. A CLP holder or CDL holder who is issued a citation, or other charging document, for DUI in a CMV has violated 49 CFR part 382, subpart B, regardless of whether the driver is



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ultimately convicted of the offense. Therefore, the driver is prohibited from operating a CMV until completing the RTD process.

23. Can the monthly data report be broken down by state?

Currently, the monthly report breaks out the number of violations reported and the number of uniquely registered employers by state.

24. If the non-MCSAP law enforcement agencies do not query CDLIS or Query Central, is this information going to be in Nlets?

Yes, we are working to provide this data to Nlets in the future

25. Can a function be added to the Clearinghouse for investigators to see which carriers have conducted a query on a specific driver?

We will consider this for a future enhancement.

26. For CDLPI applicants to implement Clearinghouse programing, will we have mini-specs or a document to help our SDLAs project costs and submit plans that will survive TRP review?

Yes, we will provide technical specifications as soon as possible so that States will be able to apply for grant funding.

27. When will the IT specifications be released for our SDLA's? Will the Clearinghouse Rule II programming be a CDL funding priority in future Notice of Funding Opportunities (NOFO)?

See question above.

Yes, the Clearinghouse Rule II programing will be a funding priority in future NOFOs.

28. When the SDLA is notified by the Clearinghouse regarding a driver's prohibited status, will the Divisions also be notified at the same time?

No. When the States are notified of the change in the driver's Clearinghouse status, it will be a system to system process between the Clearinghouse and the State system. There will not be a separate notification to the Division.

29. What if a driver refuses to test for alcohol or drugs while operating a CMV? Will the driver be prohibited in Clearinghouse upon being charged?

If the driver is charged or receives a citation for DUI while operating a CMV, it would be reported to the Clearinghouse by the employer (or the employer's service agent) as an



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“actual knowledge” violation. The driver is prohibited from operating a CMV until completing the RTD process.

If a driver refuses a DOT drug or alcohol test, this is a refusal to test violation and the employer must report the refusal to the Clearinghouse. The driver is prohibited from operating a CMV until completing the RTD process.

If this is a refusal of a roadside sobriety test, it is not reported to the Clearinghouse. Only a conviction triggers mandatory disqualification under 383.51.

- 30. Is the issue with adding dashes or spaces while completing queries being addressed? While completing several queries on a driver when adding dashes, I have seen the driver come back not prohibited. If you check the same driver without dashes it will show the driver is prohibited.**

Yes, the Clearinghouse will treat a CDL with and without leading zeros as the same. Dashes should not be entered in the CDL number in the Clearinghouse.

- 31. I recently received a call from a person who did not have a CDL or CLP and was listed as a prohibited driver. Is this a mistake and if so, how does this person get removed from the Clearinghouse?**

The driver should submit a petition via DataQs so that the violation can be reviewed and removed if entered in error.

- 32. Can you give us the ability to see all results of pre-employment queries conducted by an employer of a driver? As I understand, the only query we see is the last one conducted. (i.e., 2 show prohibited, then the last showing not prohibited.)**

We are looking to add this function to a future Clearinghouse release.

International Impacts

- 1. Will Canadians, prohibited by Clearinghouse, be stopped at the border?**

All inspectors should be checking CDLIS Gateway or Query Central for a driver's Clearinghouse status during every inspection.

- 2. Are drivers from Central America or other countries part of this program?**

No. The drug and alcohol regulations in 49 CFR part 382 only apply to drivers who operate a CMV in commerce in any State and are subject to the CDL regulations in 49 CFR part 383 or the CDL requirements imposed by Canada or Mexico. Licenses from countries other than the United States, Mexico, or Canada are not acceptable for operating a CMV in the United States.



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3. Can we send Canadian drivers a letter of DQ and state that they are prohibited from driving in the US?

All drivers (including Mexican and Canadian) are notified any time information is reported to the Clearinghouse pertaining to that driver. The drivers are electronically notified if the individual is registered in the Clearinghouse; otherwise the notification is sent via U.S. mail to the address of record for the driver's commercial license. For prohibited drivers the notifications specifically indicate that they are prohibited from operating a commercial motor vehicle.

4. I think if you have an "International" license, you are allowed to drive with it for a year. How does this apply to commercial drivers though.

The United States has CDL reciprocity agreements with only two countries, Canada and Mexico. In rare instances, FMCSA may issue temporary waivers (up to 90 days), or exemptions (up to two years) to allow drivers licensed in other countries to operate in the United States. These drivers are required to carry the waiver or exemption document with them.

On occasion, drivers may show an international license/permit claiming they can operate a CMV or any vehicle in the United States. The international license/permit is a basic translation of the information on a foreign license into the language of the country being visited; it is not a license.

Clearinghouse Functionality

1. Will NLETS have the capacity to flag or query Clearinghouse database for prohibited drivers?

This functionality is in the process of being developed. We do not have an estimated release date at this time.

2. Can the list of queries be alphabetized?

We will look into the possibility of adding sorting functions

3. Can you make the Clearinghouse more print friendly? For enforcement purposes, especially for the carriers that are not registered?

We are looking at adding the ability to print PDFs in the Clearinghouse.

If the carrier is not registered, the Clearinghouse will not have information on the carrier and therefore, we would not be able to display information.

4. Can a field be added to the Clearinghouse to show the date an employer enters the negative RTD test results and completion of the follow-up testing plan for a driver?



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Yes, we can add this functionality to the Clearinghouse in a future release.

5. Will there be a possibility in the future for SIs to enter info to the Clearinghouse?

There are no plans to have SIs enter data into the Clearinghouse

6. Can Divisions extract historical Clearinghouse violation statistics by State or timeframe (State X for 2021, etc.)? It is really good information to use with CMV safety stakeholders at the State and local level.

Not at this time. We will look at the possibility in the future.

7. Will there ever be a time when positive tests will have to be uploaded into the Clearinghouse by the MRO?

No, there are no plans to require an MRO to upload the federal Custody and Control Form or MRO notes for a positive test to the Clearinghouse.

8. Will FMCSA investigators get increased access to the Clearinghouse to have the ability to see driver entered violations (history) in the Clearinghouse?

At this time, FMCSA investigators can view the driver violation information in the Clearinghouse.

Notification of Driver CMV Operation (NODOP)

1. Once States are notified of drivers prohibited status there would be no need to process Letters of Disqualifications since the downgrade within 60 days would more than likely be quicker. Is this correct?

The current LOD process is now under active review to determine the extent to which revisions to that process are necessary.

2. How will this affect the current LOD process in the future?

The current LOD process is now under active review to determine the extent to which revisions are necessary.

3. At some point will this eliminate the requirement for the Field from issuing Letters of Disqualification and Employer Notification letters?

The current LOD process is now under active review to determine the extent to which revisions are necessary.



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4. What happens when a driver becomes prohibited but is not up for a renewal for a CDL? Will we just issue a Letter of Disqualification to have that driver's CDL downgraded?

Driver status information will be transferred to the States. Upon notification from the Clearinghouse to the States, the State will have 60 days to complete the downgrade process.

49 CFR 383.73(q): **Drug and Alcohol Clearinghouse.** Beginning November 18, 2024, the State must, upon receiving notification that pursuant to [§ 382.501\(a\) of this chapter](#), the CLP or CDL holder is prohibited from operating a commercial motor vehicle, initiate established State procedures for downgrading the CLP or CDL. The downgrade must be completed and recorded on the CDLIS driver record within 60 days of the State's receipt of such notification.

Administrative Per Se Convictions

1. Does a State's Admin Per Se convictions count in citations for prohibited status?

For the purposes of "actual knowledge" violations reported to the Clearinghouse by an employer, a traffic citation means a ticket, complaint, or other document charging a driver with driving a CMV under the influence of alcohol or drugs. As explained above, a driver who is issued a citation for *DUI in a CMV* has violated 49 CFR part 382, subpart B, regardless of whether the driver is ultimately convicted in an Admin Per Se proceeding.

It should be noted that refusal to submit to a law enforcement administered sobriety test for alcohol under 49 CFR 383.51, Table 1, Row 4 is not a citation for "DUI in a CMV" nor is it considered a refusal to submit to a DOT test under 49 CFR 382.211 and should not be reported to the Clearinghouse. However, a conviction for refusal to submit to a sobriety test for alcohol would trigger mandatory disqualification under 49 CFR 383.51.

Miscellaneous

1. Should the clearinghouse@dot.gov email be used to report issues discovered during safety audits/reviews? Or should we be using a different internal email for FMCSA staff to report?

For internal questions: DACHenforcement@dot.gov

For external questions: clearinghouse@dot.gov

Phone Help Line: (844) 955-0207



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2. Just as FYI, the following guidance was provided this past Fall.

	Is a driver who violated FMCSA's drug & alcohol program prohibited from performing safety sensitive functions in commercial motor vehicles, as defined in 49 CFR Part 383 (e.g., > 26,000 lbs. GVWR), before completing the return to duty process in accordance with 382.503?	Is a driver who violated FMCSA's drug & alcohol program prohibited from performing safety sensitive functions in commercial motor vehicles, as defined in 49 CFR Part 390 (e.g., > 10,000 lbs. GVWR), before completing the return to duty process in accordance with 382.503?
Current CDL Holder	YES, prohibited in interstate and intrastate commerce	YES, prohibited in interstate commerce only
Former CDL Holder	YES, prohibited in interstate and intrastate commerce	NO