

DRUG & ALCOHOL CLEARINGHOUSE

Drug and Alcohol Clearinghouse Rule II Information Session

November 9, 2021



U.S. Department of Transportation
Federal Motor Carrier Safety Administration



Agenda

1 OVERVIEW OF THE CLEARINGHOUSE RULES

2 NEXT STEPS

3 QUESTIONS

The Clearinghouse Rules

- **Initial Rule:**
 - Mandated by Congress in MAP-21
 - Published: December 5, 2016
 - Established requirements for the Clearinghouse
 - Implemented: **January 6, 2020**
- **Second rule:**
 - State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial Driver's License
 - Published: October 7, 2021
 - Effective date: November 8, 2021
 - Implementation date: **November 18, 2024**



Major Rule Provisions

- Non-issuance
- Mandatory CLP and CDL downgrade
- Application of the State query requirement to CLP holders
- Addition of the CMV driving prohibition to Part 392
- Actual knowledge violations based on issuance of a citation for DUI in a CMV
- Compliance date
- International impacts

Non-Issuance

- SDLA must query the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL
- SDLA must deny a commercial license transaction (non-issuance) if the Clearinghouse query shows the driver is prohibited

Mandatory CDL Downgrade

- SDLA will receive notification of a driver's Clearinghouse status
 - SDLA to pull information from the Clearinghouse
 - FMCSA to push a notification to the SDLA
- SDLA must initiate the process to remove a CLP or CDL privilege (downgrade) when notified of a driver's Clearinghouse violation
- FMCSA will notify the SDLA when a driver completes the RTD requirements and is no longer prohibited
- If FMCSA removes a violation erroneously entered in the Clearinghouse, the SDLA will be notified
 - SDLA must reinstate commercial driving privilege
 - SDLA to expunge the driving record accordingly

Application of State Query Requirement to CLP Holders

- CLP holders (commercial learner's permit) are covered by the requirements of the rule
- SDLAs must query the Clearinghouse prior to issuing, renewing or upgrading a CLP

Addition of the CMV Driving Prohibition to Part 392

- States receiving MCSAP funding must adopt and enforce a comparable prohibition
- MCSAP officers will continue to check a driver's status at roadside
- Drivers will be placed out-of-service if prohibited from operating due to a Clearinghouse violation
- Non-MCSAP officers, after a downgrade, will be able to view the downgraded license via a routine license check

Actual Knowledge Based on Issuance of a Citation

- A CDL or CLP holder charged with a DUI in a CMV has violated part 382, subpart B, regardless of whether driver is convicted of the offense
- Driver will be required to go through the return-to-duty (RTD) process
- Violation will remain in the Clearinghouse for 5 years, or until the driver has completed RTD, whichever is later
- Driver may submit documentary evidence of non-conviction to their Clearinghouse record

Compliance Date

- States must achieve substantial compliance as soon as possible, but no later than **November 18, 2024**
 - Obtain legislative authority
 - Establish IT connectivity between State IT system and the Clearinghouse
 - Train all necessary staff in new procedures

International Impacts

- No change to current requirements
 - Drug testing rules apply to Canadian and Mexican drivers who operate a CMV in commerce in the United States
 - Canadian and Mexican drivers who test positive or refuse a test are prohibited from operating in the United States and must complete the RTD process

CDL and CLP Holders in the Return-to-Duty Process

RTD STATUS	# DRIVERS
All Drivers (with at least 1 violation)	91,370
CDL/CLP holders in Prohibited Status	72,444
RTD Process Not Started	54,495
Substance Abuse Professional (SAP) Request Sent	615
SAP Designation Confirmed	1,723
SAP Request Declined	362
Initial SAP Assessment Complete	3,327
Determined Eligible for RTD Testing	11,922
CDL/CLP Holders in Not-Prohibited Status*	18,926
RTD Test with Negative Results	17,591
Follow-Up Testing Plan Complete	1,335

* A driver is no longer prohibited from performing safety-sensitive functions once they have a negative RTD test result.

Data as of 10/1/2021

Next Steps

- Participate during information session with the SDLAs
- Remind States to apply for CDLPI grant funding
- Conduct outreach to carriers and drivers on change to Actual Knowledge
- Conduct outreach to stakeholders using a general presentation to be sent to the field
- Continue to check CDLIS and Query Central during roadside inspections and cite 390.3(e) until new violation is added
- Continue to check Clearinghouse during investigations for carrier registration and query activities

Questions?

- **For more information:**
 - Visit the Clearinghouse Learning Center at: <https://clearinghouse.fmcsa.dot.gov/Learn> for resources and answers to common questions
- **Contact us:**
 - Email clearinghouse@dot.gov
 - Call 844-955-0207

