DRUG & ALCOHOL CLEARINGHOUSE

Check-In Webinar

June 2023

Presenters

- Stacy Johnson
  Office of Safety, FMCSA
- Clearinghouse
  Technical Team

Roll Call

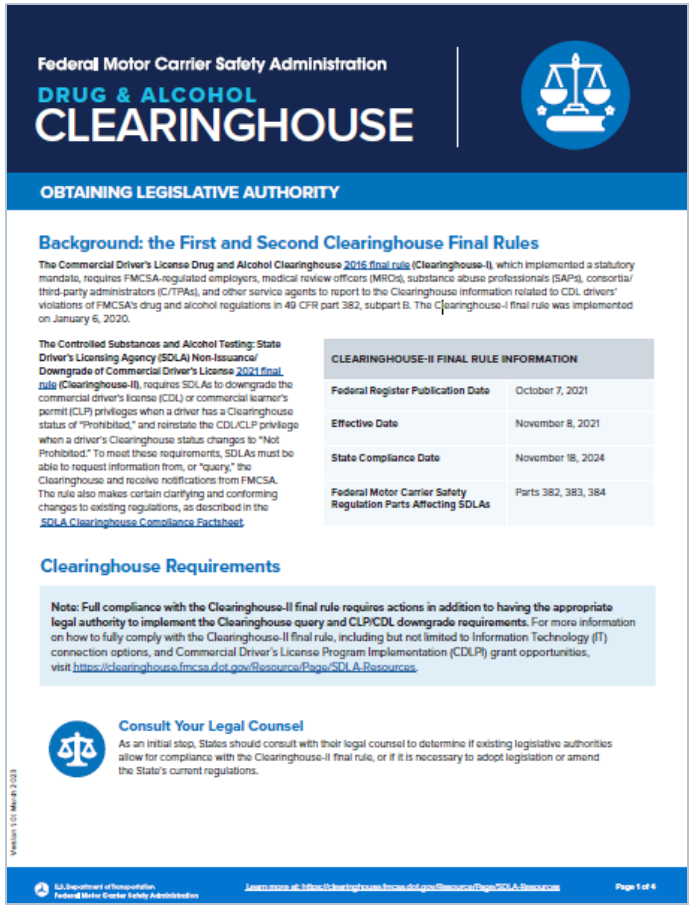
- Use the chat pod to tell us your name, role, and State

Agenda

1. **CLEARINGHOUSE-II REQUIREMENTS AND LEGISLATIVE AUTHORITY**
   - Pre-existing legislative authority
2. **FOLLOW-UP FROM CDL COORDINATOR/ IT MANAGER MEETING**
   - Connecting to the Clearinghouse
   - CDLs and aliases
3. **STATE REPORT-OUT FOLLOW UP**
   - Updates on Clearinghouse-II implementation progress
4. **Q&A**

New Resource: Clearinghouse-II State Requirements

- Now available on the SDLA Resources page: https://clearinghouse.fmcsa.dot.gov/resource/page/sdla-resources
- Outlines the Clearinghouse-II requirements to assist States in making changes to their State's statutes and regulations to facilitate implementation of the SDLA Clearinghouse query and CLP/CDL downgrade requirements by November 18, 2024.



Federal Motor Carrier Safety Administration
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OBTAINING LEGISLATIVE AUTHORITY

Background: the First and Second Clearinghouse Final Rules

The Commercial Driver's License Drug and Alcohol Clearinghouse 2016 final rule (Clearinghouse-I), which implemented a statutory mandate, requires FMCSA-regulated employers, medical review officers (MROs), substance abuse professionals (SAPs), consortia/third-party administrators (C/TPAs), and other service agents to report to the Clearinghouse information related to CDL drivers' violations of FMCSA's drug and alcohol regulations in 49 CFR part 382, subpart B. The Clearinghouse-I final rule was implemented on January 6, 2020.

The Controlled Substances and Alcohol Testing: State Driver's Licensing Agency (SDLA) Non-Issuance/Downgrade of Commercial Driver's License 2021 final rule (Clearinghouse-II), requires SDLAs to downgrade the commercial driver's license (CDL) or commercial learner's permit (CLP) privileges when a driver has a Clearinghouse status of "Prohibited," and reinstate the CDL/CLP privilege when a driver's Clearinghouse status changes to "Not Prohibited." To meet these requirements, SDLAs must be able to request information from, or "query," the Clearinghouse and receive notifications from FMCSA. The rule also makes certain clarifying and conforming changes to existing regulations, as described in the SDLA Clearinghouse Compliance Factsheet.

CLEARINGHOUSE-II FINAL RULE INFORMATION	
Federal Register Publication Date	October 7, 2021
Effective Date	November 8, 2021
State Compliance Date	November 18, 2024
Federal Motor Carrier Safety Regulation Parts Affecting SDLAs	Parts 382, 383, 384

Clearinghouse Requirements

Note: Full compliance with the Clearinghouse-II final rule requires actions in addition to having the appropriate legal authority to implement the Clearinghouse query and CLP/CDL downgrade requirements. For more information on how to fully comply with the Clearinghouse-II final rule, including but not limited to Information Technology (IT) connection options, and Commercial Driver's License Program Implementation (CDLPI) grant opportunities, visit https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources.

Consult Your Legal Counsel

As an initial step, States should consult with their legal counsel to determine if existing legislative authorities allow for compliance with the Clearinghouse-II final rule, or if it is necessary to adopt legislation or amend the State's current regulations.

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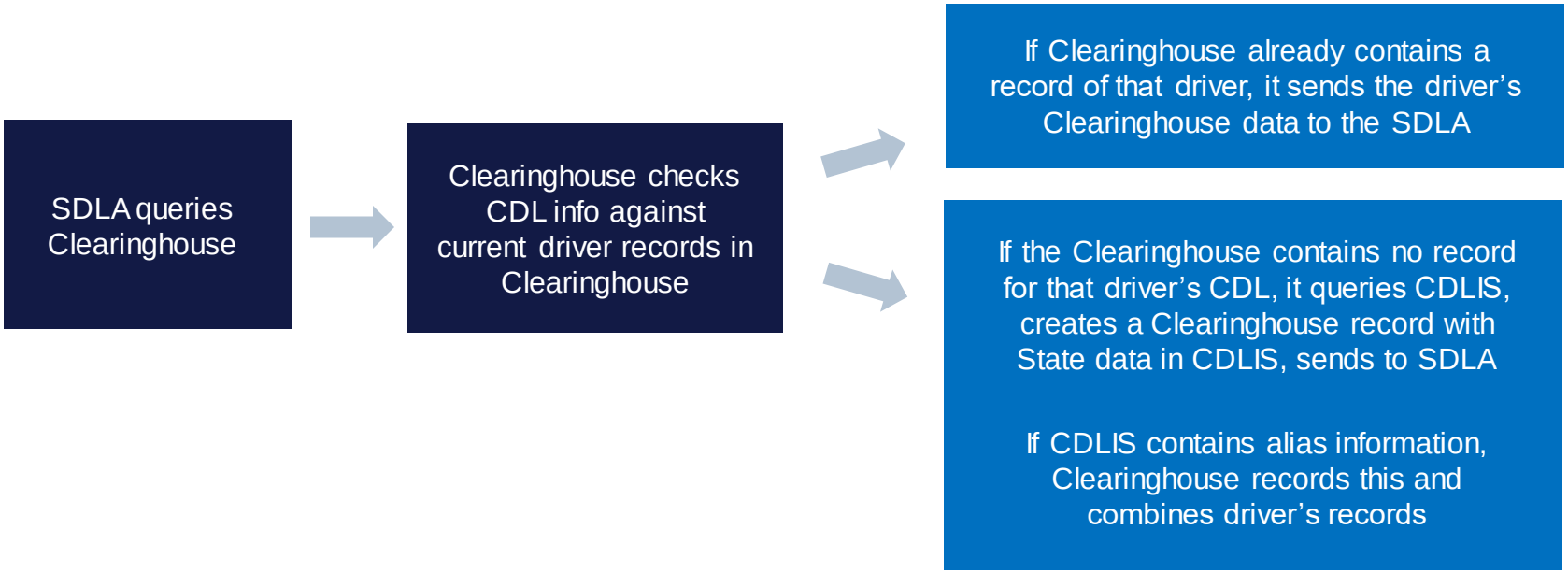
Pre-existing Legislative Authority

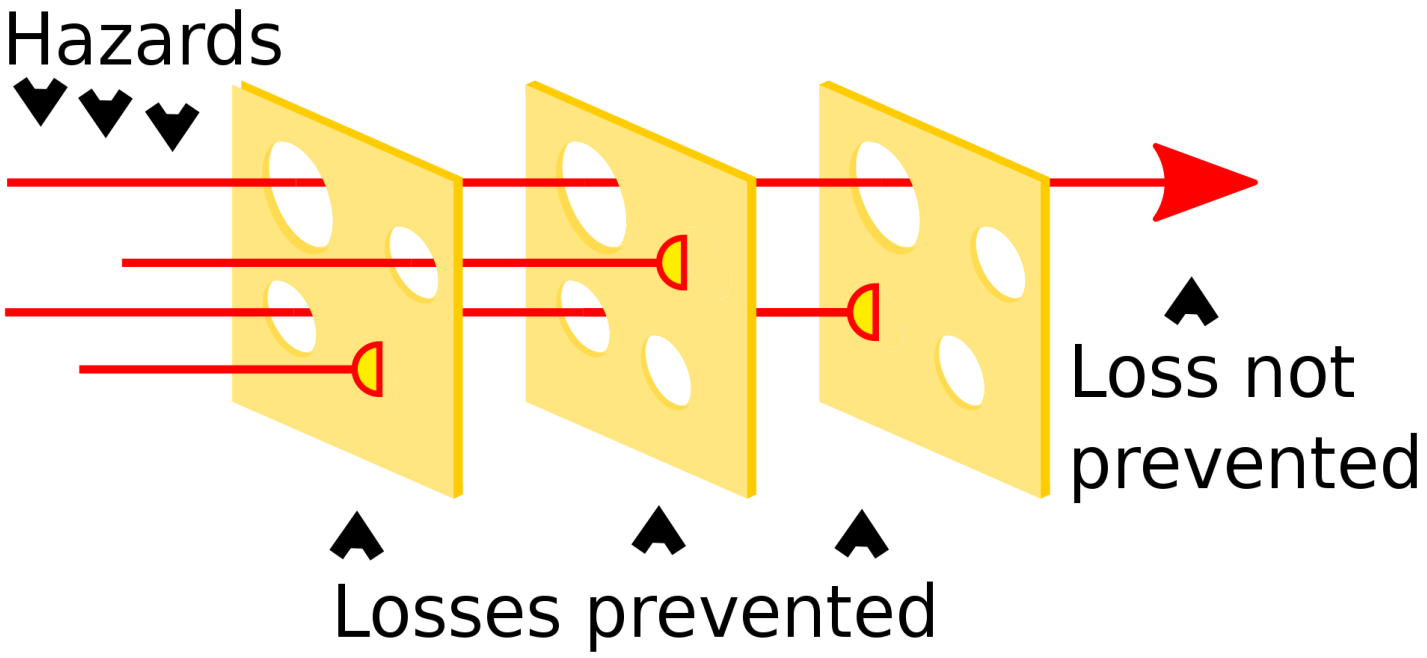
- **Consult your legal counsel.** As an initial step, States with pre-existing legislative authority should consult with their legal counsel to determine if existing legislative authorities allow for compliance with the Clearinghouse-II final rule, or if it is necessary to adopt legislation or amend the State's current regulations.

CDLs and Aliases

- How does the Clearinghouse help maintain “one driver, one license, one record”?
  - The Clearinghouse is not the system of record for CDL history information. Maintaining high quality CDLIS data is critical.



The Safe Systems Approach (the "Swiss Cheese" model)



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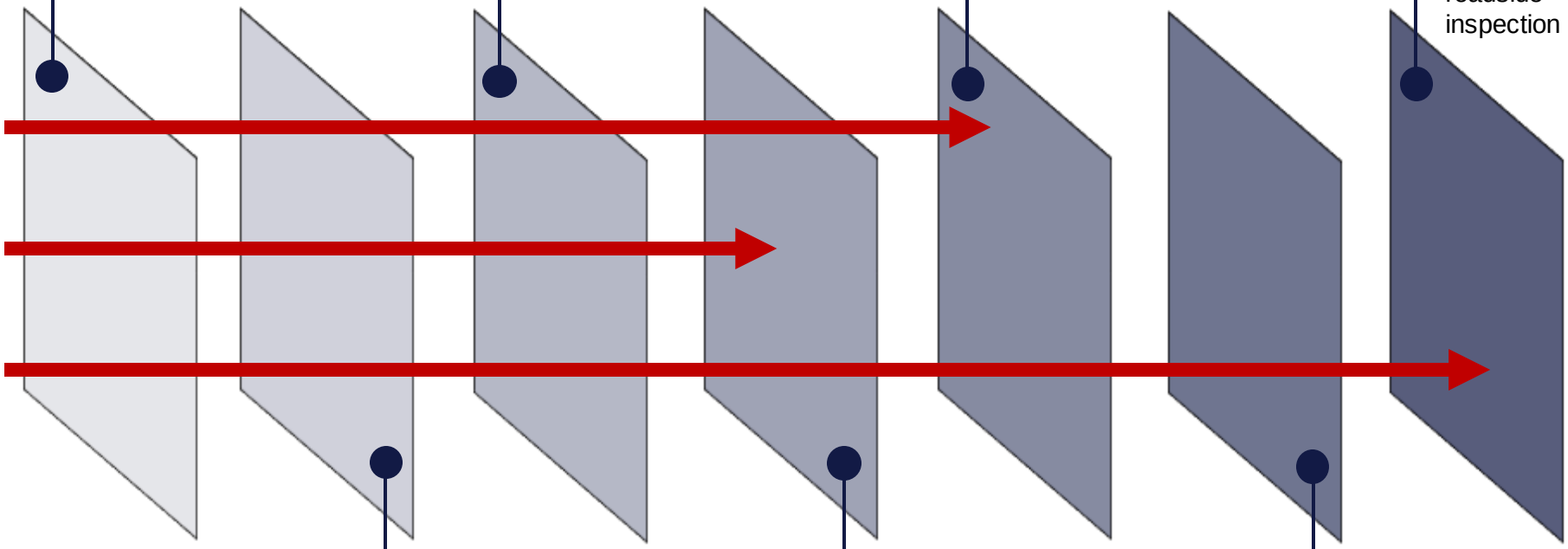


ELDT
Driver queried in Clearinghouse before BTW training

Pre-employment query, test
Employer required to query driver in Clearinghouse and to send driver for a drug test before they can operate CMVs

12-month lookback
Employer is notified if driver's Clearinghouse record is updated within 12 months of a query, employer may conduct follow-on query for full details

Roadside query
Law enforcement query driver during roadside inspection

CDL issuance
Driver queried in Clearinghouse before CDL issued

Annual query
Employer required to query driver in Clearinghouse at least once a year

New CDL in a new State
Will require ELDT query, plus CDL issuance query

Connecting to the Clearinghouse

Reminder: Clearinghouse-II SDLA Requirements

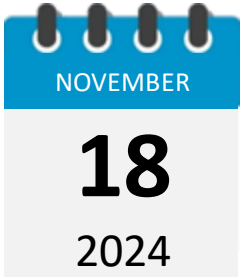
Mandatory CDL Downgrade

- Initiate process to remove CLP or CDL privilege **when notified by FMCSA** of a driver's prohibited status in the Clearinghouse
- If **notified by FMCSA** that a driver's status changed to "not prohibited"
  - Terminate CLP/CDL privilege removal process; or
  - If CLP/CDL privilege removal was completed, reinstate CLP/CLP privilege
- If **notified by FMCSA** that a driver's prohibited status was due to erroneous entry, reinstate as soon as possible and expunge driving record

Non-Issuance

- **Query Clearinghouse** prior to commercial licensing transaction
- Deny commercial licensing transaction if Clearinghouse query shows driver in a prohibited status
- Commercial licensing transaction = issuing, renewing, transferring, or upgrading a CDL or issuing, renewing, or upgrading a CLP

Beginning



"Direct Connect" Data Exchange Options

*SDLA must **query** the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL or CLP*

Query Methods

1. REST service (pull)
2. Web interface (pull)
   (log in to Clearinghouse website)

*SDLA will **receive notification** of a driver's prohibited status (or change to not prohibited)*

Notification Methods

1. Machine-to-machine (push)
2. Machine-read email* (push)
3. Person-read email* (push)
4. REST service (pull, at least daily)
5. Web interface (pull, at least daily)

**Pull/query also needed to obtain full driver data*

States may also choose to work via CDLIS

IT Connectivity Webinar – Direct Connect methods

- **July 20, 2023, 3-4 p.m. ET**
- Who should attend?
  - IT Managers and personnel who will implement the solution to connect the State IT system to the Clearinghouse.
  - Program Managers overseeing their State's Clearinghouse implementation.
- What will be covered?
  - The Clearinghouse Technical Team will answer your questions about the information in the Clearinghouse Web Services Development Handbook, available on the SDLA Resources page
  - Testing procedures for "direct connect" push and pull methods.
- To register: https://usdot.zoomgov.com/meeting/register/vJItduirrDwsEgF6yRAIC1zAq23yDDB0uJA

Resources for Connecting to the Clearinghouse

Connect to the Clearinghouse

States have the option to establish a direct connection between their State IT system and the Clearinghouse. The guide below provides the information States will need to set up this connection.

- Download the Clearinghouse Web Development Handbook v1.2
- Download the Open API Spec
- **COMING SOON:** Interconnection Security Agreement (ISA), which will be required for connecting State IT systems with the Clearinghouse.

Note: This handbook is currently in draft form. We encourage States to send their feedback for consideration in future versions. If you have questions or comments, please send them to the Clearinghouse Team.

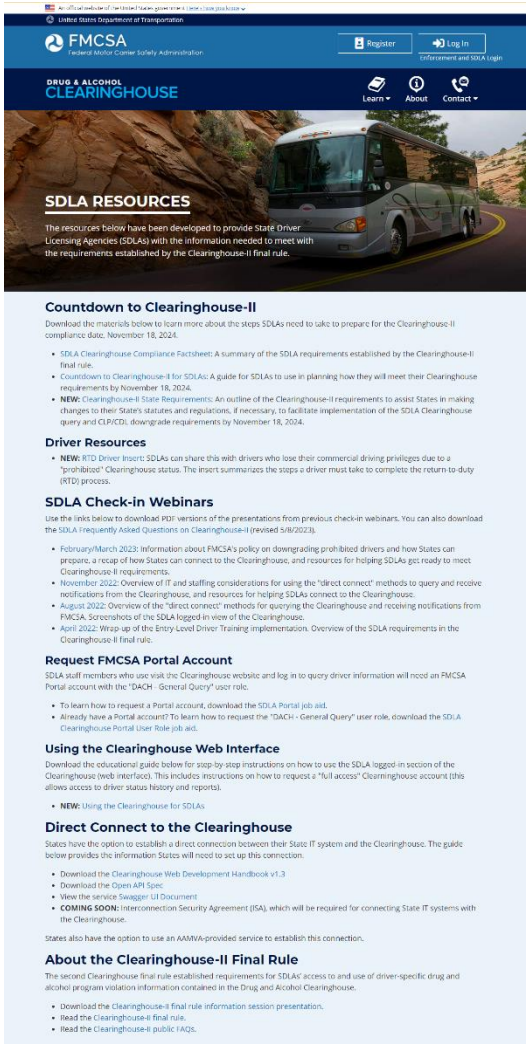
States also have the option to use an AAMVA-provided service to establish this connection.

https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources

- Contact AAMVA for more details on CDLIS-based solution (specifications coming August 2023).
  - Apti Morada: amorada@aamva.org (primary contact)
  - Rajesh Dharmarajan: rdharmarajan@aamva.org
- States are encouraged to apply for CDL Program Implementation (CDLPI) grant funding to cover costs associated with implementing the Clearinghouse II requirements (next funding cycle).

SDLA Resources

- Visit the SDLA Resources Page
  - **New:**
    - Clearinghouse-II State Requirements
    - RTD Driver Insert
  - Slides from SDLA check-in webinars
  - Technical materials on “direct connect” methods
  - Instructions on requesting FMCSA Portal accounts
  - **Coming Soon:** Interconnection Security Agreement



https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources

New Resource: Return-to-Duty Insert for Drivers

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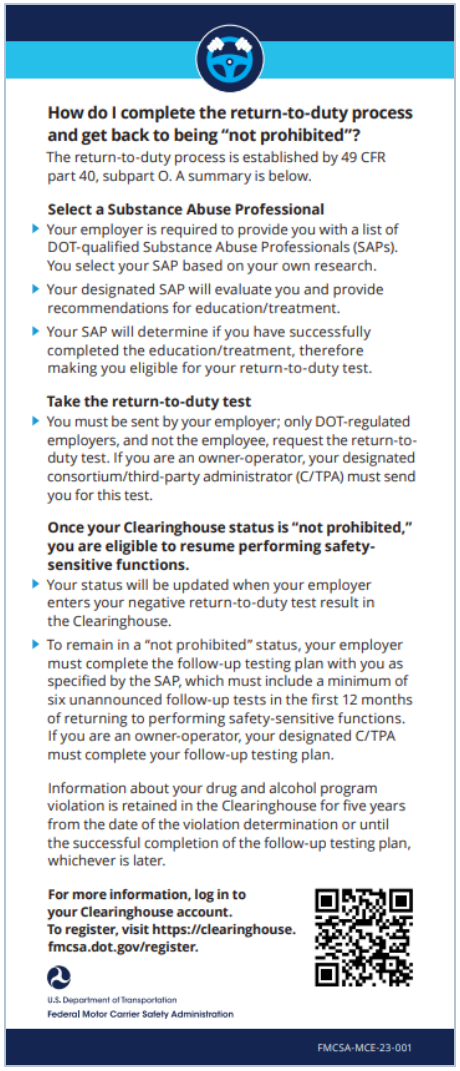
Are you prohibited from operating a commercial motor vehicle (CMV) due to a drug and alcohol program violation?

Complete the return-to-duty process—here's how.

A driver with a drug and alcohol program violation is prohibited from performing safety-sensitive functions, including operating CMVs, for any DOT-regulated employer until the return-to-duty process is complete.

By November 18, 2024, as part of new Federal regulations, drivers with a "prohibited" status in the Drug and Alcohol Clearinghouse will lose or be denied their State-issued commercial driving privileges.



How do I complete the return-to-duty process and get back to being "not prohibited"?

The return-to-duty process is established by 49 CFR part 40, subpart O. A summary is below.

Select a Substance Abuse Professional

- Your employer is required to provide you with a list of DOT-qualified Substance Abuse Professionals (SAPs). You select your SAP based on your own research.
- Your designated SAP will evaluate you and provide recommendations for education/treatment.
- Your SAP will determine if you have successfully completed the education/treatment, therefore making you eligible for your return-to-duty test.

Take the return-to-duty test

- You must be sent by your employer; only DOT-regulated employers, and not the employee, request the return-to-duty test. If you are an owner-operator, your designated consortium/third-party administrator (C/TPA) must send you for this test.

Once your Clearinghouse status is "not prohibited," you are eligible to resume performing safety-sensitive functions.

- Your status will be updated when your employer enters your negative return-to-duty test result in the Clearinghouse.
- To remain in a "not prohibited" status, your employer must complete the follow-up testing plan with you as specified by the SAP, which must include a minimum of six unannounced follow-up tests in the first 12 months of returning to performing safety-sensitive functions. If you are an owner-operator, your designated C/TPA must complete your follow-up testing plan.

Information about your drug and alcohol program violation is retained in the Clearinghouse for five years from the date of the violation determination or until the successful completion of the follow-up testing plan, whichever is later.

For more information, log in to your Clearinghouse account. To register, visit https://clearinghouse.fmcsa.dot.gov/register.

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FMCSA-MCE-23-001

- Educate drivers with a "prohibited" Clearinghouse status
  - Provide at time of CDL denial
  - Include in mailings notifying drivers of CDL downgrades

PDF available for download at: https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources

Contact clearinghouse@dot.gov to request print-ready files.

State Report-Out Follow-Up

State Report-Out Follow Up

- Legislative authority
  - Any new legislation since May 16?
  - Has the State Requirements factsheet been helpful?
- Downgrading CDLs
  - Any other States begun this since May 16?
  - Any States requested Full Access?
- Policies and procedures
  - Any questions for FMCSA or other States?
  - Any best practices to share?

Q&A

- Enter your questions in the chat pod or unmute
- If we don't get to all the questions today, we will follow up with you directly

Resources

Where can I learn more about the Clearinghouse-II final rule?

- Visit
  - SDLA Resources: https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources
  - Drug and Alcohol Clearinghouse: https://clearinghouse.fmcsa.dot.gov/

- Contact
  - Clearinghouse Team: clearinghouse@dot.gov
  - https://clearinghouse.fmcsa.dot.gov/Contact