

DRUG & ALCOHOL CLEARINGHOUSE

Ohio Department of Education and Workforce

December 19, 2023

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

1

DRUG & ALCOHOL CLEARINGHOUSE

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

Agenda

<p>1 OVERVIEW OF THE CLEARINGHOUSE About the Congressional mandate and what it means</p>	<p>4 COMMON ISSUES AND FAQs How to resolve common issues users are experiencing, and responses to frequently asked questions</p>
<p>2 REPORTING VIOLATIONS Which violations are reported to the Clearinghouse, and the consequences</p>	<p>5 NEXT STEPS Make sure you are registered and know how to get technical support</p>
<p>3 RETURN-TO-DUTY PROCESS What is the return-to-duty (RTD) process and the required steps for prohibited drivers</p>	

2

2

DRUG & ALCOHOL CLEARINGHOUSE

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

The Clearinghouse First Final Rule

- Mandated by Congress (MAP-21, Section 32402)
- Published December 5, 2016
- Established requirements for the Clearinghouse
- Implemented on January 6, 2020

Learn more and access the Clearinghouse first final rule at:
www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse

3

3

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Increasing safety on our Nation's roadways

Real-time access to reported violation information for select registered users

Easier for employers to meet pre-employment investigation and reporting obligations

Safer Roadways

More difficult for drivers to conceal drug and alcohol violations from employers

More insight into employer compliance with drug and alcohol testing rules

4

4

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Who is covered by the Clearinghouse rule?

- All CDL drivers who operate CMVs on public roads and their employers and service agents. This includes, but is not limited to:
 - Interstate and intrastate motor carriers, including passenger carriers
 - School bus drivers
 - Construction equipment operators
 - Limousine drivers
 - Municipal vehicle drivers (e.g., waste management vehicles)
 - Federal and other organizations that employ drivers subject to FMCSA drug and alcohol testing regulations (e.g., Department of Defense, municipalities, school districts)
- Government entities are not required to obtain a USDOT Number under 49 CFR part 390, however they are subject to the Controlled Substances and Alcohol Use and Testing regulations in 49 CFR part 382

Learn more about the specific actions each user can take at: <https://clearinghouse.fmcsa.dot.gov/Resource/Index/User-Roles>

5

5

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Employer Requirements

Register

- Link to your FMCSA Portal account (N/A if no USDOT number)

Record

- Report CDL driver drug and alcohol program violations
- Positive alcohol tests, test refusals, actual knowledge

Query

- Check if driver is prohibited from operating a CMV
- Pre-employment and annual

Designate

- Designate a C/TPA (optional)
- C/TPA may conduct queries, report violations and RTD information on your behalf

6

6

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Reporting Violations – Employers and C/TPAs

What is the employer or designated C/TPA required to report?

INFORMATION TO BE REPORTED TO CLEARINGHOUSE
(must be reported by close of the third business day following the date the employer obtained the information)

- An alcohol confirmation test with a concentration of 0.04% or higher
- Refusal to test (alcohol) as specified in 49 CFR [40.261](#)
- Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR [40.191](#)
- Actual knowledge, as defined in 49 CFR [382.107](#), that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance
- Negative RTD test results (drug and alcohol testing, as applicable)
- Completion of follow-up testing

Prospective/Current Employer of CDL Driver
Or
Service agent acting on behalf of Current Employer of CDL Driver

7

7

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Refusal: What It Is, What It Isn't

- Fail to appear for any test
- Fail to remain at the testing site until testing is complete
- Fail to provide a specimen or insufficient amount with no medical reason
- Declines to take a second test if directed
- Fails to undergo a medical examination or evaluation as directed
- Fail to cooperate with any portion of the testing procedure
- Provides a diluted, adulterated, or substituted specimen

8

8

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Actual Knowledge: What It Is

- Actual knowledge must be based on one of the following:
 - Employer's direct observation of employee use
 - A traffic citation for driving a CMV while under the influence of alcohol or controlled substances
 - An employee's admission of alcohol or controlled substance use, except as provided in §382.121
- When reporting actual knowledge, employers must upload supporting documentation. This may include:
 - Citation for DUI in a CMV that requires a CDL
 - Statement from the driver's supervisor
 - Statement from the driver

9

9

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Actual Knowledge: What It Isn't

- A DUI in a personal vehicle
- A positive drug test (DOT or non-DOT)
- Voluntary self-identification when following company policy
 - The admission meets company policy requirements
 - Is not done to avoid other testing requirements
 - Is done prior to performing a safety sensitive function (i.e., reporting for duty)
 - Cannot drive until the employee has been evaluated and has successfully completed education or treatment requirements

10

10

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Actual Knowledge Based on Issuance of a CMV DUI 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
- Conviction:
 - Driver will be required to go through the return-to-duty (RTD) process
 - Plea to lesser charge still considered conviction
- Non-Conviction:
 - Charges must be dropped or dismissed without fines/court costs
 - Driver submits evidence to DACH, and cleared to drive once prohibited status removed



11

11

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Reporting Violations – MROs and SAPs

What information is the MRO or SAP required to report?

	INFORMATION TO BE REPORTED TO CLEARINGHOUSE	DEADLINE FOR REPORTING INFORMATION
MRO 	Verified positive, adulterated, or substituted drug test result	Within two business days of making a determination or verification of a DOT-approved drug test
	Refusal to test (drug) requiring a determination by the MRO as specified in § 40.191	Within one business day of making any change in the reported results
SAP 	Changes a verified drug test per part § 40.149	By the close of the business day following the date of initial assessment
	Identification of driver and date the initial assessment was initiated	By the close of the business day following the determination that the driver completed the RTD process
	Date of determination of eligibility for RTD testing	


12

12

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

POSITIVE TEST RESULTS- ACTION REQUIRED

- Immediately remove the driver from the safety sensitive function.
- Provide the driver with a list of Substance Abuse Professionals (SAP).
- Report the violation to the Clearinghouse (if required).
- Always follow your D&A policy!
 - Suspension, termination, reassignment, etc.
- Driver Responsibilities:
 - Evaluated by SAP
 - Follow SAP treatment requirements
 - Complete Return-to-Duty (RTD) test
 - Complete Follow-up Testing (as required by SAP)



13

13

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Return-to-Duty (RTD) Process

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 RTD process is complete.

The steps drivers must take to complete the RTD process is established by 49 CFR part 40, subpart O, as follows:

- 1 Select a Substance Abuse Professional (SAP) and successfully complete education/ treatment plan.
- 2 Take the return-to-duty test.
- 3 When employer enters negative RTD test, Clearinghouse status is "not prohibited" and driver is eligible to resume performing safety-sensitive functions.

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

14

14

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Clearinghouse-II: Commercial Driving Privileges

Beginning November 18, 2024:

CDL Downgrade	CDL Non-Issuance
<ul style="list-style-type: none"> • When a CDL driver's Clearinghouse status changes to "prohibited," the SDLA must remove the commercial driving privileges • The commercial driving privilege will be reinstated if/when the driver's status changes to "not prohibited" 	<ul style="list-style-type: none"> • Before any commercial licensing transaction, the SDLA will query the Clearinghouse • If the driver has a "prohibited" status, the SDLA will deny the commercial licensing transaction

Commercial licensing transactions include: issuing, renewing, transferring, or upgrading a CDL, or issuing, renewing, or upgrading a CLP

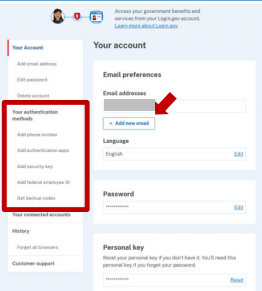
15

15

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Common Issues – Login.gov

- Change email address
 - Log in to <https://secure.login.gov/>.
 - Click + **Add new email** and follow instructions.
- Change authentication method
 - Log in to <https://secure.login.gov/>.
 - In the side navigation, locate "Your authentication methods" and click the option you need.



16

16

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

FAQs – Violations

- Does the Clearinghouse contain violations that occurred prior to January 6, 2020?**
 - No, the Clearinghouse contains only violations that occur on or after January 6, 2020.
- How long is the violation information retained in the Clearinghouse?**
 - 5 years or until the follow-up testing plan is successfully completed, whichever is later.
- Can an MRO or employer report a drug and alcohol program violation if the driver is not registered for the Clearinghouse?**
 - Yes. The Clearinghouse will associate the violation with a driver's CDL information. This will be recorded even if the driver has not registered for the Clearinghouse.

17

17

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

FAQs – Violations

- What do I do if a driver gets a DUI in a personal vehicle?**
 - Follow company policy. Verify driver has valid license. Driver is not prohibited.
- What do I do if a driver tests positive on a non-DOT drug test?**
 - Follow company policy. Driver is not prohibited.
- Can a prohibited driver operate a non-CDL vehicle? (i.e. a van for example)**
 - Cannot drive CDL vehicle in intra or interstate commerce
 - Cannot drive non-CDL commercial vehicle (GVWR 10,001 lbs or more, 16 more passengers not for compensation) in interstate commerce
 - Can drive non-commercial vehicle (GVWR <10,001 lbs, <16 passengers)
 - May not be medically qualified
 - Has no current clinical evidence or clinical record of use of illegal substances....
 - Has no recent history of alcohol abuse and has no current clinical diagnosis of alcoholism

18

18

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

FAQs – Violations

- **Is the driver's social security number (SSN) required when reporting violation information or querying the Clearinghouse?**
 - No, per § 382.705, the employer shall provide the driver's CDL number and State of issuance.
- **Are employers of non-CDL drivers who operate CMVs required to query or report violations to the Clearinghouse?**
 - No. Only employers who employ drivers subject to 49 CFR parts 382 and 383 must query or report information to the Clearinghouse.
- **Will FAQs and other outreach materials about the Clearinghouse be updated?**
 - Yes, the Clearinghouse website (<https://clearinghouse.fmcsa.dot.gov>) will be updated regularly with new information, including the factsheet and FAQs. In addition, you will be able to sign up for email updates.

19

19

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

FAQs – Return-to-Duty


- **Will a driver's follow-up testing plan be available in the Clearinghouse?**
 - No, follow-up testing plans will not be uploaded into the Clearinghouse.
 - When a prospective employee has not completed a follow-up testing plan prescribed by the SAP, the subsequent new employer must obtain the follow-up testing plan from the previous employer as required in § 382.413, continue administering the remaining follow-up tests, and report the date the follow-up testing plan was complete to the Clearinghouse.
- **Will follow-up testing be tracked within the Clearinghouse?**
 - No, follow-up testing will not be tracked in the Clearinghouse.
 - The follow-up testing plan completion date is reported to the Clearinghouse.
 - However, if there is a positive follow-up test result, it must be reported as a new violation.
 - The RTD process would be re-initiated after the new violation is entered.

20

20

DRUG & ALCOHOL CLEARINGHOUSE U.S. Department of Transportation Federal Motor Carrier Safety Administration

Next Steps



Register

For information to get started, visit <https://clearinghouse.fmcsa.dot.gov/Register>

For more information:

- Visit the Clearinghouse Learning Center at <https://clearinghouse.fmcsa.dot.gov/Learn> for resources and answers to common questions

<p>Contact us:</p> <ul style="list-style-type: none"> ➤ FMCSA Ohio Division ➤ (614) 280-5657 	<p>Contact Clearinghouse Team:</p> <ul style="list-style-type: none"> ➤ https://clearinghouse.fmcsa.dot.gov/Contact ➤ Call 844-955-0207
---	--

21

21
