

## Federal Motor Carrier Safety Administration

# DRUG & ALCOHOL CLEARINGHOUSE



## Clearinghouse Rule II

### What It Means for Clearinghouse Users

On **November 8, 2021**, the second Clearinghouse final rule, [Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial Driver's License; Correction](#), went into effect. This rule addresses how States are required to use the information in the Clearinghouse to help ensure that only qualified drivers are eligible to receive and retain a commercial driver's license (CDL).

### Employer Requirements Have Not Changed

The second Clearinghouse rule does not change any of the requirements for employers to query CDL and commercial learner's permit (CLP) holders and report drug and alcohol program violations. All requirements established by the first Clearinghouse rule, [Commercial Driver's License Drug and Alcohol Clearinghouse](#), remain in place. Download the brochures below to learn more about these requirements.

- [Employer brochure](#)

- [Owner-operator brochure](#)

## **Update: Actual Knowledge of DUI Citations**

The Clearinghouse second rule includes an update regarding actual knowledge violations. The following question and answer has been added to the [Clearinghouse website](#) to summarize this change.

**If a CDL driver’s employer is aware that the driver received a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, the employer must report this to the Clearinghouse as actual knowledge of prohibited use of drugs or alcohol. If the citation does not result in a conviction, may the driver petition to have this violation removed from their Clearinghouse record?**

Effective November 8, 2021, an actual knowledge violation, based on the issuance of citation for DUI in a CMV, will not be removed from the Clearinghouse when the citation does not result in a conviction.

In the final rule published on October 7, 2021 ([86 FR 55718](#)), FMCSA clarified that a driver subject to FMCSA’s drug and alcohol use and testing requirements, who has been issued a traffic citation (or other charging document) for DUI in a CMV, has violated 49 CFR part 382, [subpart B](#). Accordingly, the 2021 final rule amends the regulation to state that a report of actual knowledge of prohibited use of drugs or alcohol, based on the issuance of DUI in a CMV, will remain in the Clearinghouse for 5 years, or until the driver has completed the return-to-duty process, whichever is later, regardless of whether the driver is ultimately convicted of the DUI offense. Drivers who are not convicted of the offense may petition to submit documentary evidence of non-conviction to their Clearinghouse record.