



✓ Safety Bulletin [Year End Regulations Update \(/safety-bulletins/year-end-regulations-update\)](/safety-bulletins/year-end-regulations-update) has been updated.



## YEAR END REGULATIONS UPDATE

### *Clearinghouse Results Help Identify Unresolved Testing Violations*

Data from the CDL Drug and Alcohol Clearinghouse revealed over 47,000 drivers with at least one drug or alcohol testing

violation occurring since January 6, 2020, according to a report showing information through December 1st. However, the number of drivers remaining in a prohibited status and ineligible to drive is almost 42,000, and no drivers have completed a follow-up testing plan.

A driver remains in a prohibited status until the following is entered onto his or her record:

- A substance abuse professional assessment and successful completion of prescribed treatment, and
- A negative return-to-duty test

Unless these milestones are entered onto the driver's record, he or she cannot be used in a safety-sensitive function.

This article will address how to respond to the results of annual limited queries of the Clearinghouse. Part 1 in our series walked carriers through requesting their first annual queries.



<https://stnonline.com/news/fmcsa-drug-and-alcohol-clearinghouse-registration-now-open/> [les/styles/extra\\_large/public](#)

*Employers must request queries no later than January 5, 2021, for drivers who were in their Part 382 testing program on January 6, 2020.*

## **Responding to queries**

The result of a limited annual query of the Clearinghouse will be one of two responses:

- Driver not prohibited, or
- Record(s) found; full query needed

If the report comes back that the driver is not prohibited, no further action is needed. The next annual query on this driver is due within a year from the report date.

If the report shows that information exists on the driver, the carrier must request and receive a full query within 24 hours of the limited report. If the full query is not received, the driver must be removed from safety-sensitive functions until a report is obtained, to learn of the driver's status.

A full query requires consent from the driver via his or her personal Clearinghouse account. If a driver does not have an account, the employer may need to assist the driver to meet the report deadline. A driver who refuses to consent cannot be used in a safety-sensitive function.

The full query offers more details than a limited query, such as a prohibited status or where the driver stands in the return-to-duty process. For instance, suppose a driver tests positive on a pre-employment test under another employer's program and does not pursue the return-to-duty process. The results of the full query would be "prohibited." Or, if a driver had a violation but completed the necessary steps to go back to performing safety-sensitive functions, the status would be "not prohibited," even if the driver is still in the follow-up testing program.

## **Dangers of not knowing or responding**

A motor carrier that does not request an annual query or fails to act on the results of an unresolved testing violation has committed a non-recordkeeping violation (i.e., did not do something that was required), which has a penalty up to \$15,419 for each violation.

A new entrant will automatically fail a safety audit if a single instance is found of using a driver with an unresolved DOT testing violation. For existing carriers, such a violation is acute, meaning noncompliance with a single acute regulation is considered a serious violation. Noncompliance is so severe that it requires immediate corrective actions by a motor carrier.

In addition, during roadside inspections, enforcement will have access to the driver's Clearinghouse account to see a prohibited status. The driver will be placed out of service, affecting the carrier's Compliance, Safety, Accountability score. When a driver is placed out of service, the motor carrier is often left scrambling to find a replacement driver to continue the shipment to its destination.

Aside from the compliance issues, using a driver with an unresolved DOT testing violation may lead to claims of negligent entrustment in the event of a crash - even if your driver was not at fault. Attorneys could claim the driver should never been behind the wheel in the first place.

## ***FMCSA Extends the CDL/CLP/Medical Certificates Waiver***

Yesterday, the FMCSA extended the CDL/CLP/Medical Certificates waiver that was set to expire on December 31st. FMCSA has cited that the extension was needed due to the potential backlogs that exist at some State Driver's License Agencies (SDLA) across the country. In addition, the Agency noted a resurgence of stay-at-home orders and other emergency measures that may cause further economic and logistical disruptions.

This waiver becomes effective on January 1, 2021 and expires on February 28, 2021. Please read the specific provisions below, as the dates and applicability vary. Please note, SDLAs have the authority to exercise discretion in extending these dates, consistent with the outline below. Carriers and drivers should check with the SDLA to confirm their states expiration periods.

### **For CDL/CLP Drivers, the waiver will:**

- Waive until February 28, 2021, the maximum period of CDL validity for CDLs due for renewal on or after March 1, 2020.
- Waive until February 28, 2021, the maximum period of CLP validity for CLPs that are due for renewal on or after March 1, 2020, without requiring the CLP holders to retake the general and endorsement knowledge tests.
- Waive until February 28, 2021, the requirement that CLP holders wait 14 days to take the CDL skills test.

### **Medical Requirements for CDL/CLP and non-CDL drivers:**

- This notice will waive, until February 28, 2021 the requirement that CDL holders, CLP holders, and non-CDL drivers have a medical examination and certification, provided that they have

proof of a valid medical certification and any required medical variance that were issued for a period of 90 days or longer and that expired on or after September 1, 2020.

- This notice will also waive the requirement that, to maintain the medical certification status of “certified,” CDL or CLP holders provide the SDLA with an original or copy of a subsequently issued medical examiner’s certificate and any required medical variance, provided that they have proof of a valid medical certification or medical variance that expired on or after September 1, 2020.

#### **For State Driver License Agencies (SDLA):**

- This notice waives, until February 28, 2021 the requirement that the SDLA change the CDL or CLP holder’s medical certification status to “not certified” upon the expiration of the medical examiner’s certificate or medical variance, if they have proof of a valid medical certification or medical variance that expired on or after September 1, 2020. Additionally, the notice waives certain requirements with regards to SDLAs downgrading a drivers CDL or CLP upon expiration of the medical examiner’s certificate or medical variance, provided the SDLAs have proof of a valid medical certification or medical variance that expired on or after September 1, 2020.

The full waiver notice can be found [here](#)

(<http://ata.msgfocus.com/c/1dFJMlgawV7E1HscQBxLTs59ODS>). Carriers and drivers should review this waiver to ensure all terms, conditions, and restrictions are met.

### ***FMCSA Grants Exemption for Pulsating Amber Brake-Activated Rear Warning Lamps - December 11, 2020 | FMCSA***

The Federal Motor Carrier Safety Administration has granted a request by Grote Industries, LLC for a 5-year exemption to allow motor carriers operating trailers and van body trucks to install amber brake-activated pulsating warning lamps on the rear of trailers and van body trucks in addition to the steady-burning brake lamps required by the Federal Motor Carrier Safety Regulations. [85 Fed. Reg. 78918 \(https://www.govinfo.gov/content/pkg/FR-2020-12-07/pdf/2020-26772.pdf\)](#) (December 7, 2020).

The agency noted that rear-end crashes generally account for approximately 30 percent of all crashes. These types of crashes often result from a failure to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.

### ***FMCSA Proposes to Eliminate Driver’s Annual List of Violations***

For decades, truck and bus operators have questioned why a driver must provide an annual list of violations since motor carriers are required to obtain and review an annual motor vehicle record.

This duplication of efforts is the driving force behind a recent proposed rule to eliminate the annual list of violations in §391.27.

### **Summary of the NPRM**

The Federal Motor Carrier Safety Administration's (FMCSA) notice of proposed rulemaking (NPRM) seeks to eliminate §391.27 and any reference to the rule within other Federal Motor Carrier Safety Regulations.

In addition, the agency proposes to change references to a "state" to a "driver's licensing authority" when identifying the entity issuing each unexpired commercial motor vehicle operator's license or permit to the driver. The new verbiage would impact drivers licensed in Canada or Mexico who operate in the United States.

Comments on the NPRM will be accepted by FMCSA through February 12, 2021. Visit [regulations.gov](https://www.regulations.gov) and reference docket number FMCSA-2018-0224.

### ***Have You Prepared Your Terminal Facility for the Upcoming Holidays?***

It is not uncommon for thieves to target truck terminals over the holidays as they know it is a good opportunity as no one is there. Make sure that you take extra precaution to secure the trucks and items of value at your terminal. If your units do not have anti-siphon devices or locking caps, instruct the drivers not to fill the units at the end of the day. Make sure that all security alarms are in working order. Walk the perimeter of the lot to make sure that security fencing is in good condition. Move units and all other material such as pallets, tires, etc. far enough away from the fence so they cannot be used to climb on to get over the fence. Consider blocking the entrance and exits to the lot so units cannot be stolen. Throughout the Holidays assign management personnel to check the terminal randomly. Using a little prevention and common sense can deter a thief from striking your facility.





[https://www.idealease.com/sites/default/files/styles/extra\\_large/public/holidays-red-ball-694x400.jpg?itok=AXXn-iNS](https://www.idealease.com/sites/default/files/styles/extra_large/public/holidays-red-ball-694x400.jpg?itok=AXXn-iNS)

***Idealease would like to wish all of you a safe and joy filled holiday season and a prosperous New Year! You will receive your next Idealease Safety Bulletin on January 8, 2021.***

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