

INFORMATION BULLETIN



February 23, 2023

ON-HIGHWAY ENFORCEMENT OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION DRUG AND ALCOHOL CLEARINGHOUSE VIOLATIONS

The purpose of this Information Bulletin (IB) is to provide information related to the enforcement of Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse violations during an on-highway North American Standard inspection.

On May 28, 2020, the Commercial Vehicle Safety Alliance (CVSA) issued an IB which reiterated direction from the FMCSA regarding the use of the Commercial Driver's License Information System (CDLIS) to identify Drug and Alcohol Clearinghouse violations. Highway Patrol Manual 82.6, Commercial Enforcement Manual, Chapter 18, Electronic Inspection Procedures, requires departmental personnel assigned to the Commercial Enforcement Program to obtain CDLIS access in conjunction with an FMCSA Portal account. As a condition of receiving Motor Carrier Safety Assistance Program grant funding, CDLIS information is required to be queried as a component of the North American Standard inspection process. Drivers who are prohibited from operating a commercial motor vehicle (CMV) as the result of a Drug and Alcohol Clearinghouse violation shall be placed out-of-service (OOS), as applicable.

Section 34520(a) of the California Vehicle Code (CVC) requires motor carriers and drivers to comply with controlled substances and alcohol testing (CSAT) requirements in Title 49 of the Code of Federal Regulations (CFR), Part 382 (commencing with Section 382.101).

Pursuant to Section 382.103, Title 49, CFR, the CSAT requirements apply to the driver of a CMV as defined in Sections 383.5 and 382.107, Title 49, CFR. The following vehicles or combinations of vehicles used in *interstate* or *intrastate* commerce to transport persons or property meet the definition of a CMV for the purposes of CSAT requirements:

- A vehicle having a gross vehicle weight rating (GVWR) or gross vehicle weight (GVW), whichever is greater, of 26,001 pounds or more.



- A combination of vehicles having a GCWR or GCW of 26,001 pounds or more inclusive of a towed unit with a GVWR or GVW of 10,001 pounds or more, whichever is greater.
- A vehicle or combination of vehicles designed to transport 16 or more passengers, including the driver.
- A vehicle or combination of vehicles of any size transporting hazardous materials requiring the display of placards.

Pursuant to Section 382.501(a), Title 49, CFR, a driver is prohibited from performing a safety-sensitive function (SSF), including the driving of a CMV, when their driver license (DL) history search, using the CDLIS, indicates “Driver is prohibited from operating under 382.501(a) - Drug and Alcohol Clearinghouse.”

Section 382.501(c), Title 49, CFR, states that, for the purposes of prohibition from performing an SSF, a CMV is one described in Section 382.107, Title 49, CFR, **and** a CMV as defined in Section 390.5, Title 49, CFR, that is engaged in **interstate** commerce. Vehicles defined in Section 390.5, Title 49, CFR, include:

- Any vehicle with a GVWR or GVW of 10,001 pounds or more.
- Any combination of vehicles with a GCWR or GCW of 10,001 pounds or more.
- Any vehicle designed or used to transport more than eight passengers, including the driver, for compensation.
- Any vehicle designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.

NOTE: Section 382.501(c), Title 49, CFR, defines an SSF as the driving of a CMV as defined in Section 390.5, Title 49, CFR, in **interstate** commerce. California has adopted the CVSA Out-of-Service Criteria (OOSC) into regulation pursuant to Section 1239, Title 13 of the California Code of Regulations (CCR). Therefore, conditions identified in the OOSC have the force of regulation.

Pursuant to Section 1200(a), Title 13, CCR, the OOSC is applicable to drivers operating vehicles identified in Sections 545(a)(11), 34500, and 34500.1 CVC.

The **interstate** or **intrastate** operation of a vehicle may determine if the vehicle or combination of vehicles is identified in Section 34500 CVC. For example, a private motor carrier operating a motortruck with a GVWR of 6,000 pounds and towing a trailer with a GVWR of 5,000 pounds is a CMV pursuant to Section 390.5, Title 49, CFR. When this combination of vehicles is engaged in **interstate** commerce, it is regulated by the U.S. Secretary of Transportation and, is therefore, identified in Section 34500(j)



CVC. Unless transporting a hazardous material (Section 34500[g] CVC) when engaged in *intra*state commerce, this combination of vehicles is not identified in Section 34500(j) CVC.

The FMCSA has determined that a former commercial driver license (CDL) holder, who has downgraded to a noncommercial DL, may operate a CMV as defined in Section 390.5, Title 49, CFR, when that driver's DL history search in CDLIS indicates "Driver is prohibited from operating under 382.501(a) - Drug and Alcohol Clearinghouse." The flowchart in Annex A may be used to determine the appropriate course of action when a driver's DL history search in CDLIS indicates "Driver is prohibited from operating under 382.501(a) - Drug and Alcohol Clearinghouse."

If a DL number belonging to a prohibited driver is entered into Iteris inSPECT inspection software, inspectors who have logged into CDLIS via inSPECT will be prompted with an automatic warning message. The warning message displayed will advise the inspector, "Drug and Alcohol Clearinghouse – Driver is prohibited from operating under 382.501(a)."

Section 1239, Title 13, CCR, should be utilized when recording the OOS violation in the Iteris inSPECT inspection software. Additionally, Section 34520(a) CVC should be utilized when issuing a CHP 215, Notice to Appear, to a motor carrier and/or driver who is not in compliance with the controlled substances and alcohol requirements set forth in Part 382, Title 49, CFR. Although prohibited drivers shall be placed OOS, there is no authority to impound vehicles operated by noncompliant motor carriers or drivers.

NOTE: The requirement to query CDLs through the CDLIS has been codified through the adoption of Section 1239, Title 13, CCR. Additionally, Drug and Alcohol Clearinghouse prohibitions are not considered to be DL violations.

Questions regarding this IB should be directed to Commercial Vehicle Section, at (916) 843-3400.

OFFICE OF THE COMMISSIONER

OPI: 062

ANNEX A

ON-HIGHWAY ENFORCEMENT OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION DRUG AND ALCOHOL CLEARINGHOUSE VIOLATIONS FLOWCHART

