

# CDL Programs Update

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**Broomfield, CO**

Kevin Lewis, Director, AAMVA Driver Programs



# FMCSA Regulations and Rulemakings

# Self Reporting of Out-of-State Convictions

- Final Rule released April 26, 2013
- Final Rule Compliance Date – May 28, 2013
- Driver must report out-of-state convictions to State of licensure only if convicting state is not in substantial compliance with FMCSA regulations

# CDL Permit & Testing Rulemaking

- Effective Date of Final Rule – July 8, 2011
- Amended Final Rule Issued March 25, 2013
- Issued to address 7 of the 34 petitions for reconsideration submitted after the original Final Rule was published
- New Compliance Date – July 8, 2015

# Petitions for Reconsideration - Granted

- Requiring two Employees to Verify Documents
- Prohibiting Training Schools from Administering Skills Tests
- Skills Test Reciprocity
- Prohibiting States from Using a Photo on a CLP
- State Procedures
- Bonding Requirements
- Requiring Annual Background Checks for Skills Test Examiners

# 1. Requiring Two Employees to Verify Documents

## Old Requirement

Two SDLA staff members must verify CLP and CDL applicant's test scores, application forms and legal presence and domicile documents

## Petition

Burden on States for two persons to check every document in the licensing process for each applicant

# 1. Requiring Two Employees to Verify Documents – (cont.)

## Decision

- FMCSA did not intend to create a redundant process
- FMCSA wanted more than one employee to participate substantially in licensing process
- Final Rule requires at least two employees be substantially involved in licensing process

## 2. Prohibiting Training Schools from Administering Skills Tests

### Old Requirement

- Prohibited CDL training schools from skills testing applicants the schools train
- Exception: Schools may skills test their own students, if no alternative state or 3rd party skills test facility is within 50 miles, but same person cannot train and test student applicant.



## 2. Prohibiting Training Schools from Administering Skills Tests (cont.)

### Petition

- Petitioners claimed it was too restrictive and created hardship for States, training schools and motor carriers

### Decision

- Final Rule now prohibits an examiner from skills testing applicants they have trained. Another examiner may now test the student.

## 3. Skills Test Reciprocity

### Old Requirement

Requires the State of domicile to accept skills test results from another State where the applicant was trained

### Petition

- State of domicile being held responsible for fraud in testing State
- States do not want to accept 3rd party out-of-State test results
- No system in place to electronically transmit test results

## 3. Skills Test Reciprocity (cont.)

### Decision

- FMCSA acknowledged States' concerns over accepting out-of-State skills test results
- Denied request to withdraw or amend this requirement.
- The compliance date for this provision is now July 8, 2015. This will allow FMCSA to assure State compliance with the new testing requirements

## 4. Prohibiting States from Using Photograph on the CLP

### Old Requirement

Prohibits States from placing a photograph on the CLP  
Petition

Prohibiting the photograph on the CLP would cause economic harm to the States by having to modify vendor contracts and make the CLP less secure.

### Decision

Final Rule now allows a jurisdiction to add a digital color image or photograph or B&W laser engraved photograph on the CLP

## 5. State Procedures

### Old Requirement

- States must check for legal presence and domicile before issuance of CLP and CDL
- Exception: Only done once on or after July 8, 2011, if notation made on driver record
- Exception covered initial CDL issuance and transfer of CDL

## 5. State Procedures (cont.)

### Petition

Exception was not included in:

- 383.73(a)(2) – CLP
- 383.73(d)(7) – renew CDL
- 383.73(e)(5) – upgrade CDL

### Decision

Exception was inconsistent and not written as FMCSA intended. Final Rule now covers all five issuance situations as long as the notation is added to the driver's record confirming the checks were done

## 6. Bonding Requirements

### Old Requirement

3rd party skills testers must maintain bonds sufficient to pay for re-testing of drivers due to skills examiners engaging in fraudulent activities

### Petition

Requested only requiring bonds at State's discretion or only apply it to non-government entities.

## 6. Bonding Requirements (cont.)

### Decision

- Denied petitions seeking State discretion on requiring bonds
- Final rule requires 3<sup>rd</sup> party skills testers to maintain a bond sufficient to pay for the re-testing of drivers in the event fraud is detected in the conducting of skills tests. 3<sup>rd</sup> party testers who are government entities are not required to maintain a bond.



## 7. Requiring Annual Background Checks for All Test Examiners

### Old requirement

States must conduct annual nationwide criminal background checks on all knowledge and skills test examiners

### Petition

- Annual background checks are burdensome and not productive.
- One State recommended the background checks only apply to 3rd party examiners.

## 7. Requiring Annual Background Checks for All Test Examiners (cont.)

### Decision

- Denied the request to limit the background checks to 3rd party examiners.
- Final Rule now requires nationwide criminal background checks to be completed on all State and 3<sup>rd</sup> party examiners at the time of hiring.
- Jurisdictions must also complete nationwide criminal background checks of any State or 3<sup>rd</sup> party examiner who has not had a check done.

# CDL Permit & Testing Final Rule - Other Important Issues

- Eliminates use of interpreters for knowledge and skills tests
- English only for skills tests – bilingual or multilingual examiners may only test in English
- Jurisdictions required to use an FMCSA pre-approved State Testing System that comparable to the AAMVA 2005 CDL Test System (July 2010 version) which FMCSA approved in the Final Rule.

# CDL Permit & Testing Final Rule - Other Important Issues (cont)

- States must disqualify a CDL holder if the holder has been convicted of fraud related to the CDL application or testing process
- Requires decertification of examiners with *any* conviction for fraud
- Requires decertification of examiners with *any* felony conviction within the past 10 years

## CDL Permit & Testing Final Rule - Other Important Issues (cont)

- Requires State knowledge and skills test examiners to successfully complete a formal CDL test examiner training course and examination before certifying them to administer CDL knowledge and skills tests
- Requires 3<sup>rd</sup> party skills test examiners to successfully complete a formal CDL test examiner training course and examination before certifying them to administer CDL skills tests



# MAP-21

## MAP-21 Overview

- First multi-year reauthorization since 2005
- Funded at ~\$105 billion
- Grant authority remains the same @ \$30M/annually
- Expires September 2014
- MAP-21 has requirement for 29 additional rulemakings over the next 24 months

# Programs of National Significance

- Detailed in Section 31102 of the bill
  - Excessive Speed
  - Occupant Protection Devices
  - Impaired Driving
  - Crashes and Motorcycles
  - Aggressive, Fatigued or Distracted Driving
  - Law Enforcement and Traffic Supervision
  - Driver Education
  - Driver Testing
  - Driver Examination, including physical, mental and driver's licensing testing
  - Pedestrian and Bicycle Safety



# National Registry of Certified Medical Examiners (NR 1)

- Final Rule Published – April 20, 2012
- Final Rule Effective – May 21, 2012
- Only Medical Examiners on the Medical Registry may conduct physicals – May 21, 2014
- Need 40,000 Medical Examiners; 700 currently on Medical Register

# Medical Examiner's Certification Integration (NR 2)

- NPRM published on May 10, 2013
- Electronically transmit medical examiner's certificate and medical variance data to SDLAs
- Requires FMCSA to audit State compliance with the Registry process

# CMV Operator Training

- MAP-21 requires DOT regulations for:
  - Minimum entry-level training requirements for both the CDL knowledge and skills test
  - A certification process for training whereby an applicant must present certification of driver training
  - Existing NPRM published December 26, 2007
  - public listening sessions held Jan & Mar 2013
  - FMCSA developing Final Rule

# CDLIS

- Map-21 requires submission of a plan that includes:
  - Date by which *all* states shall be CDLIS compatible and fully compliant and operating a modernized commercial driver's license system
  - States must use the systems to receive and submit conviction and disqualification data
  - States are required to exchange driver records electronically (*requires a new rule*)
  - Plan must include compliance plans through September 2016

# Federal Access to State Systems

- MAP-21 requires that:
  - As a condition of receiving grant money for use in system improvements, States must provide the Secretary (DOT) electronic access to all state licensing status and driver history records
  - Provide access for driver history and status electronically; ideally via Nlets

# State Reporting of Foreign Commercial Driver Convictions

- Requires States report convictions of a foreign commercial driver to the Federal Convictions and Withdrawal Database or similar database; includes convictions relating to operation of both commercial and non-commercial motor vehicles
- Already doing this for convictions on Mexican CDL holders
- Need to duplicate this effort with Canada

# Authority to Disqualify Foreign Commercial Drivers

- New authority for FMCSA

# Emergency Disqualification for Imminent Hazard (IH)

- Incorporates Section 521 in Imminent Hazard (IH) determinations
- The Secretary (DOT) may disqualify anyone who poses an Imminent Hazard to safety
  - “Imminent Hazard” means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately
  - Disqualify driver for up to 30 days prior to hearing
  - Disqualify driver for more than 30 days if it is determined the driver constitutes an Imminent Hazard
- Requires action by SDLA



# CDL Employer Notification System

- Requires development of ENS standards
- Requires development of a plan for implementation of a national ENS that considers costs and benefits
- FMCSA recognizes several States already have such a system
- Intent is for FMCSA to accommodate the processes in place as much as possible. Will work with AAMVA membership to determine minimal standards and best practices.

# Veterans Assistance

- Program to assist veterans to acquire commercial driver's licenses
- Study and Report to Congress – Due July 1st
- Future issues
  - Domicile waiver
  - Licensing for trained and certified military drivers to CDL

# National Drug and Alcohol Clearinghouse Database

- Establishes and sets forth guidelines for creating and maintaining a national clearinghouse of CMV drug & alcohol test results
- Requires the Secretary to develop a secure process for managing information and requires interoperability with existing and new information data systems
- Has impacts similar to National Medical Registry
- Potential connection to CDLIS
- Results will ultimately be tied to the driver's record

# CDL Passenger Endorsement ('P') Requirements Review

- Requires analysis of the appropriateness of current knowledge and skills testing requirements
- AAMVA Test Maintenance sub-Committee is now reviewing the Passenger endorsement knowledge area

# Exemptions From Requirements for Covered Farm Vehicles

- Defines covered farm vehicle and exempts them and their operators from CDL, medical certificate, HOS, and vehicle maintenance, inspection and repair regulations
- While this is not HM specific, it may have an impact on Intrastate HMSP holders
- Directs the Secretary to conduct a study of the safety impacts of the exemption for covered farm vehicles
- Permits states to enact regulations regarding covered farm vehicles

# Driver Programs Contact Information

- Kevin Lewis, Director, Driver Programs
  - [klewis@aamva.org](mailto:klewis@aamva.org)
  - 703-908-2823
- Denise Hanchulak, Director, Certification and Standards
  - [dhanchulak@aamva.org](mailto:dhanchulak@aamva.org)
  - 703-908-5767
- Thomas Manuel, Director, Driver Fitness
  - [tmanuel@aamva.org](mailto:tmanuel@aamva.org)
  - 703-908-8283
- Karen Morton, Director, Driver Licensing
  - [kmorton@aamva.org](mailto:kmorton@aamva.org)
  - 703-908-8268



**Questions?**