

## **Motor Vehicle Division Informational Memo # 20-04**

### ***CDL Temporary Guidance for COVID-19***

**DATE:** February 28, 2022

**FROM:** MVD Policy & Compliance team

**TO:** All Motor Vehicle Division staff, Iowa County Treasurers and County Treasurers' staff that issue driver's licenses and non-operator's identification cards

#### **SUBJECT**

This informational memo explains recent guidance issued by the Federal Motor Carrier Safety Administration (FMCSA) and the Transportation Security Administration (TSA) regarding certain commercial driver's license (CDL) and commercial learner's permit (CLP) regulations during the declared coronavirus (COVID-19) national emergency and is most applicable to staff that issue and answer questions about CDLs.

#### **BACKGROUND**

On March 24, 2020 the FMCSA issued a waiver of certain federal regulations to help the transportation industry continue to move essential supplies, equipment and persons to address the national COVID-19 crisis. Drivers are currently facing difficulty renewing their CDLs and CLPs, as service center operations become restricted and social distancing guidelines are recommended. Drivers are also struggling to obtain updated CDL medical certificates as medical professionals are cancelling appointments to focus on responding to the public health crisis. FMCSA subsequently extended these waivers on June 15, 2020, September 18, 2020, December 31, 2020, February 16, 2021, May 26, 2021, August 31, 2021 and finally on November 29, 2021. FMCSA also issued transitional guidance on February 26, 2022 extending some provisions of these waivers for a limited time.

Additionally, on April 2, 2020, the Transportation Security Administration implemented a temporary exemption regarding the expiration of TSA security threat assessments (STAs) for Hazardous Materials Endorsement (HME) holders. This exemption was extended on July 23, 2020 and again on October 28, 2020. Measures to prevent the spread of COVID-19 are impacting the ability of CDL holders to visit a TSA enrollment center to complete the security threat assessment. Consequently, the TSA is offered an extension for security threat assessments that expired between March 1, 2020 and December 31, 2020, but this relief has since expired (see IM 20-31).

The guidance issued by the FMCSA and the TSA are detailed below, and generally allow CDL and CLP holders who have a recently expired or soon-to-be expired license, medical certificate, or security threat assessment to continue validly operating until the declared national emergency is ended.

#### **SUMMARY OF PREVIOUS ACTION**

There has also been action at the state and federal level prior to this guidance affecting CDL and CLP holders, explained in previous iterations of this informational memo #20-04. All these actions concurrently provide regulatory relief from CDL and CLP holders during this crisis, and are in alignment with the waivers issued by the FMCSA and TSA, which are detailed below.

#### **EXPLANATION OF FMCSA WAIVERS**

The specific provisions of the FMCSA waivers are listed below, followed by a brief explanation.

- 1) CDL validity extension:** The waiver extends the maximum period of validity for CDLs due for renewal on or after March 1, 2020 to February 28, 2022. In other words, **CDLs that are set to expire on March 1, 2020 or later are considered valid until February 28, 2022, and will additionally be relieved of**

**enforcement action through April 15, 2022 for driving anywhere in the U.S.** See 49 CFR 383.73(b)(9) and 383.73(d)(6).

This means that lowans who hold a CDL that expires on or after March 1, 2020 will be considered to hold a valid license if they are driving anywhere in the U.S. and valid for driving in Iowa within the 60-day grace period following expiration. For CLP testing purposes, this relief expires on February 28, 2022, and for enforcement purposes, expires on April 15, 2022.

**It is extremely important to remember that as soon as a CDL has been expired for more than one year (i.e., 366 days or more), full re-testing must be completed even if the license is considered valid for driving purposes under the FMCSA enforcement waiver.** For example, a CDL that expired on June 15, 2020 is still considered valid for driving anywhere in the U.S. until April 15, 2022 due to the FMCSA enforcement waiver, but if the licensee appears to renew on June 16, 2021 (366 days after the printed expiration date), they must complete full knowledge and skills retesting to renew their CDL.

Our data shows that most CDLs that expired earlier in the waiver coverage period (March - May 2020) have already been renewed, and therefore, we do not estimate that the retesting requirement will impact many customers.

- 2) **CLP validity extension:** The waiver extends the maximum period of validity for CLPs due for renewal on or after March 1, 2020 to February 28, 2022, without requiring the CLP holder to take the general and endorsement knowledge tests prior to upgrading to a CDL, and will additionally be relieved of enforcement action through April 15, 2022 **for driving anywhere in the U.S.** See 49 CFR 383.73(a)(2)(iii) and 383.25(c).

Whereas typically the issuance of a new CLP requires the applicant to re-take the applicable knowledge tests, those who have a CLP that expires between March 1, 2020 and February 28, 2022 will be considered to have a valid CLP through **February 28, 2022** for CDL testing and upgrading purposes, so these individuals may complete the CDL skills testing anytime on or prior to February 28, 2022 to upgrade to a CDL. This does not waive the requirement for re-testing if a CLP holder wishes to be issued a new CLP for another year, beyond the February 28, 2022 extension.

Additionally, for enforcement purposes only, a CLP expiring March 1, 2020 or later is considered valid for driving anywhere in the U.S. (and valid for driving in Iowa within the 60-day grace period following expiration), and valid for upgrading to a CDL, through **April 15, 2022**. Please see IM 20-31 for additional details concerning upgrades from a CLP to a CDL under the waiver.

- 3) **14-day CLP waiting period:** The guidance allows states to waive the requirement that CLP holders wait **14 days to take the CDL skills test.** See 49 CFR 383.25(e).

The FMSCA guidance waives the federal requirement that a CLP holder must wait 14 days after issuance before they may take the CDL skills test. In other words, a person who is issued a CLP may be scheduled for the CDL skills test the day after issuance of their CLP, or any day afterwards. We are allowing the 14-day waiting period to be waived when requested by a driver who needs expedited testing due to delays and service disruptions caused by COVID-19. This includes school bus drivers seeking relief from the 14-day wait for CDL skills testing upon issuance of the CLP (i.e., drivers who have the school bus endorsement on their CLP). This waiver ends on May 31, 2022.

**All requests to waive the 14-day waiting period must be approved by a supervisor or county liaison prior to scheduling the applicant for the skills test.** Approval should be based on whether the applicant's reason for needing expedited testing is due to COVID-19. For instance, a person who needs a CDL for employment, and the employment does not involve essential services (including driving a school bus) or the transportation of goods or persons necessary for pandemic response efforts, must still comply with the 14-day waiting period requirement. For federal reporting purposes, we will be running a report in ARTS to track how many customers are utilizing the waiver of the 14-day waiting period. You do not need to notate anything special on the record to demonstrate that you are waiving the 14-day waiting period.

Unless further extended by FMCSA, the requirement for all CLP holders to wait 14 days prior to taking the CDL skills test will resume on June 1, 2022. Therefore, beginning June 1, 2022, any person who holds a CLP cannot take the CDL skills test until 14 days has elapsed since the issuance of their CLP, even if the CLP was issued prior to June 1, 2022.

- 4) **CDL medical certificate expiration:** The guidance waives numerous requirements for CDL and CLP holders pertaining to CDL medical certificates, depending on when their medical certificate expired. **For CDL and CLP holders whose medical certificate or variance expired on or after September 1, 2021, the following requirements are waived until February 28, 2022:**
- That they have a medical examination and certification, provided that their prior valid medical certification that was issued for a period of 90 days or longer. *See 49 CFR 391.45.*
  - That they provide us with a medical certificate to maintain the medical certification status of "certified." *See 49 CFR 383.71(h)(3).*
  - That we *a)* initiate a CDL or CLP downgrade and *b)* 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. *See 49 CFR 383.73(o)(2) and 49 CFR 383.73(o)(4).*

**Additionally, drivers whose medical certificate or variance expired on or after December 1, 2021 will be considered valid for enforcement purposes only through April 15, 2022.**

Together, these waivers allow us to suspend the downgrade process of non-expected interstate drivers until February 28, 2022 if their medical certificate or medical variance (exemption) expired on or after September 1, 2021. Additionally, drivers whose medical certificate or variance expired on or after December 1, 2021 will continue to be considered valid for **enforcement purposes only** through April 15, 2022.

This waiver does **not** allow a person to submit an expired medical certificate during a renewal, upgrade, or transfer transaction. These waivers only pertain to existing CDL and CLP holders in their current license class, who will no longer be downgraded or subject to enforcement action as a result of their medical certificate expiring on or after September 1, 2021. The waiver does not apply to CDL or CLP holders whose medical certificate was issued for less than 90 days; who have developed or been diagnosed with a condition that requires a medical exemption or skills performance evaluation (SPE) since their last medical certificate was issued; or whose medical certificate, medical variance (exemption), or SPE expired prior to September 1, 2021.

To summarize the previous waivers relating to medical certificates:

- MedCert expired March 1, 2020 - May 31, 2020 = requirements waived until October 31, 2020
- MedCert expired June 1, 2020 - August 31, 2020 = requirements waived until December 31, 2020
- MedCert expired September 1, 2020 - November 30, 2020 = requirements waived until February 28, 2021
- MedCert expired December 1, 2020 – February 28, 2021 = requirements waived until May 31, 2021

- MedCert expired March 1, 2021 – May 31, 2021 = requirements waived until August 31, 2021
- MedCert expired June 1, 2021 – August 31, 2021 = requirements waived until November 30, 2021
- **MedCert expired September 1, 2021 or later = requirements waived until February 28, 2022**
- **MedCert expired December 1, 2021 or later = enforcement waived until April 15, 2022**

### EXPLANATION OF TSA EXEMPTION

The TSA issued guidance allowing states to grant 180-day extensions for Hazardous Materials Endorsement (HME) holders whose TSA threat assessments expire between March 1, 2020 to December 31, 2020. In other words, **a driver who holds a CDL with HME, and whose TSA threat assessment expires between March 1, 2020 and December 31, 2020, are being given an additional 180 days from the expiration of their current TSA threat assessment to renew the threat assessment.**

Under this exemption, HME holders can continue to operate validly under the provisions of the endorsement for an additional 180 days after the expiration of their current TSA threat assessment, if it expired or is expiring between March 1, 2020 and December 31, 2020. The exemption further provides that these drivers must initiate the renewal process of the TSA threat assessment 60 days before the end of the extension (i.e., within 120 days following the extended expiration of their TSA threat assessment). For example, for a driver whose TSA threat assessment expired on April 15, 2020, the HME will now be considered valid until October 12, 2020, and they must initiate renewal of the security threat assessment no later than August 13, 2020. All CDL holders wishing to renew their HME must still take the HazMat knowledge test and have a valid TSA threat assessment.

Please note that the extended expiration date will not be reflected in ARTS or on the person's driving record, due to complications in reprogramming the system for a temporary exemption. If you need to confirm that a driver was granted the 180-day extension, you can find the notice of the extension in their ERMS file.

### LINKS TO GUIDANCE

- March 20, 2020 FMCSA guidance - <https://www.fmcsa.dot.gov/emergency/notice-state-drivers-licensing-agencies-federal-motor-carrier-safety-administrations>
- March 24, 2020 FMCSA waiver - <https://www.fmcsa.dot.gov/emergency/fmcsa-cdl-waiver-32420>
- June 15, 2020 FMCSA waiver extension - <https://www.fmcsa.dot.gov/emergency/waiver-response-covid-19-national-emergency-states-cdl-holders-clp-holders-and-interstate>
- September 18, 2020 FMCSA waiver extension - <https://www.fmcsa.dot.gov/emergency/waiver-response-covid-19-national-emergency-states-cdl-holders-clp-holders-and-0>
- December 15, 2020 FMCSA waiver extension - <https://www.fmcsa.dot.gov/emergency/waiver-response-covid-19-national-emergency-states-cdl-holders-clp-holders-and-1>
- February 16, 2021 FMCSA waiver extension - <https://www.fmcsa.dot.gov/emergency/waiver-response-covid-19-national-emergency-states-cdl-holders-clp-holders-and-2>
- May 26, 2021 FMCSA waiver extension - <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-05/FMCSA%20CDL%20and%20MEC%20Waiver%20-%20May%2026%202021.pdf>
- August 31, 2021 FMCSA waiver extension - <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-08/FMCSA%20CDL%20and%20MEC%20Waiver%20-%20FINAL%20-%20Aug%2031%202021.pdf>
- November 29, 2021 FMCSA waiver extension - <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-11/FMCSA%20CDL%20and%20MEC%20Waiver%20-%20FINAL%20Nov%2029%2021.pdf>
- **February 26, 2022 FMCSA waiver phase-out** - <https://www.fmcsa.dot.gov/emergency/notice-enforcement-policy-regarding-expiring-drivers-licenses-and-medical-examiners-6;>

<https://www.fmcsa.dot.gov/emergency/three-month-waiver-response-covid-19-emergency-states-and-clp-holders-operating-6>

- April 8, 2020 TSA federal register notice - <https://www.federalregister.gov/documents/2020/04/08/2020-07340/exemption-from-renewal-of-the-hazardous-materials-endorsement-security-threat-assessment-for-certain>
- July 31, 2020 TSA HazMat waiver extension - <https://www.govinfo.gov/content/pkg/FR-2020-07-31/pdf/2020-16359.pdf>
- October 28, 2020 TSA HazMat waiver extension - <https://www.govinfo.gov/content/pkg/FR-2020-10-28/pdf/2020-23961.pdf>

## QUESTIONS AND ANSWERS:

### **DOES THIS CHANGE THE GUIDANCE ISSUED VIA RULE WAIVER OR GOVERNOR'S PROCLAMATION?**

No; the FMCSA waiver is consistent with all actions we have taken thus far as a result of administrative rule waiver and the Governor's proclamation.

### **DOES THE FMCSA WAIVER ALLOW CDL OR CLP HOLDERS TO CONTINUE OPERATING WHOSE LICENSE IS NOT VALID FOR A REASON OTHER THAN EXPIRATION DATE?**

No; the FMCSA waiver does not apply to a CDL or CLP holder if the driver's privileges have been suspended or withdrawn for traffic offenses. The FMCSA expiration date extension applies only to CDLs and CLPs that expire on or after March 1, 2020, were valid for driving on February 29, 2020, and are otherwise valid.

### **DOES THIS WAIVER IMPACT ENTRY-LEVEL DRIVER TRAINING (ELDT) REQUIREMENTS?**

No; ELDT is only required to be completed if the applicant obtained their CLP (or are seeking a license/endorsement upgrade) on or after February 7, 2022. For customers who are impacted by this waiver, they will not need to complete ELDT as long as their initial CLP was issued prior to February 7, 2022. However, if they obtain a new CLP February 7, 2022 or later, they will be subject to ELDT.

### **WHY ARE WE ALLOWING DRIVERS TO OPERATE WITHOUT A VALID MEDICAL CERTIFICATE?**

Many medical providers are cancelling regularly scheduled appointments to dedicate resources to the COVID-19 response. As a result, CDL drivers are unable to obtain appointments for physical examinations to maintain a new medical certificate as required every two years. Waiving the requirement to initiate a downgrade or report the driver as "not certified" in CDLIS ensures that these drivers, who have previously provided us with a valid medical certificate, can continue to provide critical transportation services across the nation. The requirement to maintain an unexpired medical certificate is waived according to the expiration date, as follows:

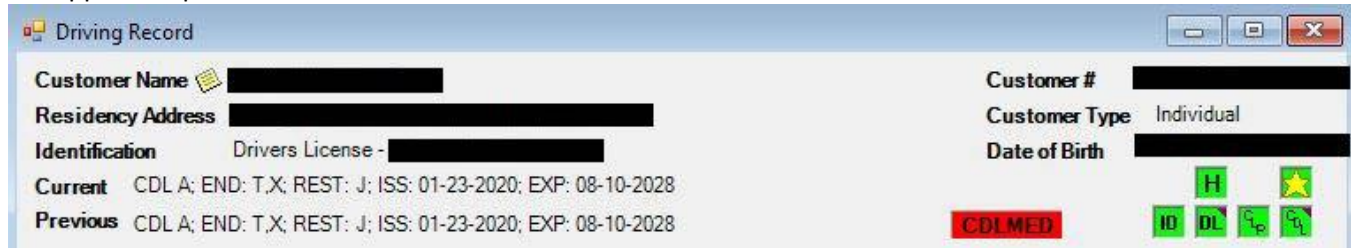
- MedCert expired between March 1, 2020 and May 31, 2020 = requirements waived until October 31, 2020
- MedCert expired between June 1, 2020 and August 31, 2020 = requirements waived until December 31, 2020
- MedCert expired December 1, 2020 – February 28, 2021 = requirements waived until May 31, 2021
- MedCert expired March 1, 2021 – May 31, 2021 = requirements waived until August 31, 2021
- MedCert expired June 1, 2021 – August 31, 2021 = requirements waived until November 30, 2021
- MedCert expired September 1, 2021 or later = requirements waived until February 28, 2022
- MedCert expired December 1, 2021 or later = *enforcement* waived until April 15, 2022.

**HOW DOES THIS FMCSA WAIVER APPLY TO CDL HOLDERS WHO ALSO HAVE A MEDICAL CERTIFICATE THAT REQUIRES A VARIANCE OR SPE?**

A CDL or CLP holder whose medical certificate requires an SPE or a variance (exemption) are still covered by this waiver, provided that the SPE or variance does not expire prior to September 1, 2021.

**WHY DOES THE CUSTOMER’S RECORD STILL APPEAR TO HAVE AN INVALID MEDICAL CERTIFICATE?**

Customers who have an expired medical certificate but are covered by the temporary COVID-19 waiver will still show a red CDLMED box on their driving record, even though their CDL status will remain valid until the end of the applicable portions of the FMCSA waiver.



*Note: Due to processing timelines, if the customer’s medical certificate expired between March 1, 2020 and March 20, 2020, the downgrade of their CDL resulting from the expired medical certificate will show as rescinded. If their medical certificate expired after March 20, 2020, there will not be any downgrade on the record until the customer’s waiver coverage ended (if they still had not submitted a valid MedCert).*

**HOW WILL I KNOW IF A DRIVER’S HAZARDOUS MATERIALS ENDORSEMENT IS BEING EXTENDED?**

The extended expiration date will not be reflected in ARTS or on the person’s driving record, due to complications in reprogramming the system for a temporary exemption. However, if you need to confirm that a driver was granted the 180-day extension, you can find the notice of the extension in their ERMS file, filed under document type “COADM.”

**WHAT IF A DRIVER WITH A HAZMAT ENDORSEMENT APPEARS TO BE ISSUED A DUPLICATE?**

If a driver with a hazardous materials endorsement that was extended by the TSA waiver appears to be issued a duplicate license (or otherwise appears in-person for a transaction requiring issuance of a new credential), you should manually update the expiration of their HME in ARTS so that the system will allow you to issue the card with the HME. Please confirm the new, extended expiration date of the HME by referencing the extension letter the driver was issued in ERMS (under “COADM”).

**IF I HAVE ADDITIONAL QUESTIONS ABOUT THIS MEMO, WHAT SHOULD I DO?**

Please work with your supervisor or county contact if you have questions, who will confer with the appropriate member of MVD management as needed.