

## **Motor Vehicle Division Policy Memo # 18-12**

### ***Expired Proof of Identity Documents-REAL ID, CLP, and CDL Issuance***

**DATE:** December 24, 2018

**FROM:** Darcy Doty, Director, Driver & Identification Services

**TO:** All Driver & Identification Services staff, Iowa County Treasurers and County Treasurers' staff that issue driver's licenses and non-operator's identification cards.

#### **SUBJECT**

This policy memo explains the federal requirements and our policy regarding expired proof of identity or citizenship documents and the issuance of a REAL ID credential, commercial learner's permit (CLP), and commercial driver's licenses (CDL).

#### **EXPLANATION**

The federal REAL ID regulations in 6 CFR pt. 37, as implemented by Iowa administrative rule 761—601.5, address the proof of identity documents required to be issued a REAL ID credential. Federal Motor Carrier Safety Administration (FMCSA) regulations in 49 CFR §§383.71 and 383.73, address the proof of citizenship documents required to be issued a CLP or CDL. Both the REAL ID regulations and the FMCSA regulations allow a valid, unexpired passport to be presented as proof of identity or citizenship, respectively, however, there are certain situations where presentation of a valid, unexpired passport at a transaction may not always be required, especially if we already have a scanned copy of the passport in our files and if the passport has previously been verified. This memo attempts to outline a variety of issuance scenarios you may encounter while trying to navigate these two federal regulations and their associated requirements.

#### **FEDERAL REGULATIONS**

There are three attachments at the end of this memo containing REAL ID regulation 6 CFR §37.11 and FMCSA regulations 49 CFR §§383.71 and 383.73.

#### **LINK TO IOWA ADMINISTRATIVE RULES**

<https://www.legis.iowa.gov/docs/iac/rule/11-08-2017.761.601.5.pdf>

#### **HELPFUL QUESTIONS AND ANSWERS**

The following questions and answers provide additional information that will be helpful to you and to customers.

**IF THE CUSTOMER HAS A VALID, UNEXPIRED PASSPORT IN ERMS THAT WAS PREVIOUSLY VERIFIED WHEN IT WAS PRESENTED, CAN WE USE IT FOR PROOF OF IDENTITY FOR A REAL ID?**

Yes.

**IF THE CUSTOMER HAS A VALID, UNEXPIRED PASSPORT IN ERMS THAT WAS PREVIOUSLY VERIFIED WHEN IT WAS PRESENTED, CAN WE USE IT FOR PROOF OF CITIZENSHIP FOR A CLP OR CDL?**

Yes.

**IF THE CUSTOMER HAS A REAL ID AND WANTS TO RENEW THEIR CLP OR CDL, BUT THEIR PASSPORT IN ERMS IS EXPIRED, CAN WE STILL ISSUE THE CLP OR CDL WITHOUT REQUIRING THE CUSTOMER TO PRESENT A VALID, UNEXPIRED PASSPORT?**

Yes. FMCSA has allowed us to use the REAL ID as proof of citizenship. Also, because we had previously verified the passport at the time we issued the REAL ID, we are ok to rely on that as valid proof of citizenship. This practice conforms to direction provided by Department of Homeland Security (DHS) that we may rely on identity documents previously provided and verified, as long as they are scanned into our files.

**IF THE CUSTOMER DOES NOT HAVE A REAL ID, BUT THEY HAVE A PASSPORT IN ERMS THAT IS EXPIRED, CAN WE USE THE EXPIRED PASSPORT AS PROOF OF CITIZENSHIP TO ISSUE THE CLP OR CDL?**

It depends on whether the last time the CLP or CDL was renewed was before or after July 8, 2015. 49 CFR §383.73 provides that the proof of citizenship is only required for a CLP or CDL renewal for the *first time* after July 8, 2011 if there is a notation in the record confirming the proof of citizenship check was made and the date it was done, however Iowa did not implement this exception until July 8, 2015. Therefore, if ERMS contains a passport that was added to the file on or after July 8, 2015 and it is not the customer's first CLP or CDL renewal, we may rely on the passport in the file to complete the transaction. Example: Customer was first issued a CDL in September 2010, then, in September 2015, the customer sought a CDL renewal and provided a copy of their valid, unexpired passport as proof of citizenship. Now the customer wants to renew their CDL again, but the passport in ERMS has since expired. In this example, the CDL can be renewed without requiring the customer to once again provide a valid, unexpired passport because the passport is scanned into the customer's file, we already verified the passport for the renewal back in 2015, and this is not the first time the CDL is being renewed after July 8, 2015 (date when Iowa implemented FMCSA regulation 49 CFR §383.73). On the other hand, if the customer had not brought in a valid, unexpired passport when they renewed in 2015, they would need to bring in a certified copy of their birth certificate or their valid, unexpired passport to continue the current renewal transaction. If the customer was issued or renewed a CLP or CDL on or after July 8, 2015 and presented a birth certificate or valid passport at that time, ARTS should not be requiring proof of legal presence when the customer comes back in for a future renewal.

**IF THE CUSTOMER HAS PREVIOUSLY BEEN ISSUED A CLP OR CDL USING A PASSPORT AS PROOF OF CITIZENSHIP AND THE CUSTOMER IS NOW SEEKING A REAL ID, CAN WE ISSUE THE REAL ID IF THE PASSPORT IN THE FILE HAS SINCE EXPIRED?**

Yes. Per direction we have received from DHS, because the passport has been scanned into our ERMS file and was used as valid proof of citizenship associated with issuing a previous credential (i.e., CLP or CDL) and the passport's validity was verified at the time of the previous issuance, we may rely on the passport in the file as valid proof of identity to issue the REAL ID. The customer will still need to provide

the required proof of social security number, proof of legal name change (if applicable), and two proofs of their Iowa residency.

**IF THE CUSTOMER HAS A PASSPORT IN THEIR FILE, BUT THE PASSPORT WAS NOT TIED TO ISSUANCE OF A CLP, CDL OR REAL ID, CAN WE ISSUE THE CLP, CDL OR REAL ID IF THE PASSPORT IN THE FILE HAS SINCE EXPIRED?**

If you cannot determine an expired passport in the file was tied to a prior issuance of a CLP, CDL, or REAL ID, you should not assume that it was verified, and therefore, you should not count on using it for the current transaction issuing the CLP, CDL, or REAL ID. However, if you believe that the passport was previously verified, but was not tied to prior issuance of a CLP, CDL, or REAL ID, please consult with your supervisor or county liaison to determine if you may rely on the expired passport.

**IF THERE IS NO PASSPORT IN THE CUSTOMER'S ERMS FILE AND THE CUSTOMER HAS NEVER BEEN ISSUED A CLP, CDL OR REAL ID, CAN I USE THE CUSTOMER'S EXPIRED PASSPORT AS PROOF TO ISSUE A CLP, CDL OR REAL ID?**

No. Both the REAL ID and FMCSA regulations require presentation of a valid, unexpired passport unless, as mentioned above, we already have a copy of the passport in our file that has previously been verified in conjunction with issuing a credential. While we can verify a person's passport through the U.S. Passport Verification Services (USPVS), that system only tells us whether the passport is fraudulent, and whether the passport number and date of birth matches DHS records. That system does not tell us whether the person has applied to renew their passport and that there is simply a delay in issuing the renewed passport. In this scenario, the customer will either need to provide a valid, unexpired passport or certified copy of their birth certificate to continue the transaction.

**HAS ANYTHING CHANGED REGARDING OUR CURRENT POLICY OF ACCEPTING EXPIRED PERMANENT RESIDENT CARDS (I-551) AS LONG AS WE ARE ABLE TO VERIFY THE VALIDITY OF THE I-551 WITH U.S. CUSTOMS AND IMMIGRATION SERVICES (USCIS)?**

No. This practice has not changed and nothing in this guidance changes that practice. The reason we can accept expired I-551 documents as long as they verify with USCIS is because the Verification of Legal Status (VLS) system will verify if the customer has reapplied with USCIS and there is just a delay in the renewal processing. As mentioned above, there is not a similar service provided for expired U.S. passports, which is why those are treated differently than expired I-551 cards.

**IF THE CUSTOMER IS SEEKING A DUPLICATE REAL ID, BUT THE PASSPORT IN ERMS IS EXPIRED, CAN I STILL ISSUE THE DUPLICATE REAL ID?**

Yes. Neither rule 761—605.11 (duplicate DL) nor rule 761—630.3 (duplicate ID) require the customer to resubmit their proof of identity documents to obtain a duplicate DL or ID as long as we can verify the applicant's identity by the documents in their EMRS file and by their 'photo on file.' However, if the customer's name, date of birth, or sex designation changed since the previous DL or ID was issued, the customer must provide the required proof under subrule 761—605.11. Keep in mind, when issuing a duplicate for a permanent resident who is a foreign national, you may verify their legal status using the proof of legal status document in their ERMS file, or by presentation of their physical proof of legal

status document. However, if *renewing* a permanent resident's license, the customer must provide proof of legal status via their INS documents (this has not changed). Temporary foreign national applicants will still need to provide proof of legal status via their INS documents for every issuance, including duplicates.

**DOES ANY OF THE ABOVE ANALYSIS APPLY TO BIRTH CERTIFICATES?**

No. Because a birth certificate does not contain an expiration date, as long as there is a certified copy of the birth certificate in the customer's file, that birth certificate may be used to issue all further REAL ID or CLP/CDL transactions.

**WHAT IF THE CUSTOMER PRESENTS THEIR BIRTH CERTIFICATE TO RENEW THEIR CLP OR CDL, BUT THEIR CURRENT LEGAL NAME ON OUR RECORDS DOES NOT MATCH THE NAME ON THEIR BIRTH CERTIFICATE, DO WE REQUIRE THE SAME PROOF OF NAME CHANGE TRAIL AS WE DO FOR REAL ID?**

Yes. Although the customer is not getting a REAL ID, we need to be able to properly link the customer's birth certificate to their current legal name in order to fully comply with the proof of citizenship requirements in the FMCSA regulations. If the customer has had a name change since their birth certificate, they will need to provide the chain of legal documentation showing how their name changed from the birth certificate to their current legal name. If they are unable to provide the documents showing how their name changed, they will need to obtain a court-ordered name change. Please refer to PM 18-02 for more information regarding proof of name change requirements.

**IF THE PASSPORT IN ERMS IS VALID AND THE CUSTOMER COMES IN TO APPLY FOR A CLP, CDL OR REAL ID, BUT THEIR CURRENT LEGAL NAME DOES NOT MATCH THE NAME ON THEIR PASSPORT, IS PROOF OF NAME CHANGE DOCUMENTATION REQUIRED TO ISSUE THE CREDENTIAL?**

Yes. The customer's proof of identity document (i.e., passport) needs to match the customer's current legal name unless the customer can present the chain of legal documentation showing how their name changed from their identity document to their current legal name.

**IF I CAN SEE THAT WE ACCEPTED A PASSPORT ON A PREVIOUS APPLICATION, AND THE APPLICATION CONTAINS THE PASSPORT NUMBERS AND IDENTIFYING INFORMATION, BUT WE DO NOT HAVE AN ACTUAL IMAGE OF THE PASSPORT IN ERMS, CAN I USE THE NUMBERS OFF OF THE APPLICATION TO ISSUE THE CREDENTIAL?**

No. We must have the actual image of the passport in ERMS.

Code of Federal Regulations

Title 6. Domestic Security (Refs & Annos)

Chapter I. Department of Homeland Security, Office of the Secretary (Refs & Annos)

Part 37. Real ID Driver's Licenses and Identification Cards (Refs & Annos)

Subpart B. Minimum Documentation, Verification, and Card Issuance Requirements

6 C.F.R. § 37.11

§ 37.11 Application and documents the applicant must provide.

Effective: March 31, 2008

[Currentness](#)

(a) The State must subject each person applying for a REAL ID driver's license or identification card to a mandatory facial image capture, and shall maintain photographs of individuals even if no card is issued. The photographs must be stored in a format in accordance with [§ 37.31](#) as follows:

(1) If no card is issued, for a minimum period of five years.

(2) If a card is issued, for a period of at least two years beyond the expiration date of the card.

(b) Declaration. Each applicant must sign a declaration under penalty of perjury that the information presented on the application is true and correct, and the State must retain this declaration. An applicant must sign a new declaration when presenting new source documents to the DMV on subsequent visits.

(c) Identity.

(1) To establish identity, the applicant must present at least one of the following source documents:

(i) Valid, unexpired U.S. passport.

(ii) Certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth.

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545.

(iv) Valid, unexpired Permanent Resident Card (Form I-551) issued by DHS or INS.

(v) Unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B.

(vi) Unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States.

(vii) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570.

(viii) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS.

(ix) REAL ID driver's license or identification card issued in compliance with the standards established by this part.

(x) Such other documents as DHS may designate by notice published in the Federal Register.

(2) Where a State permits an applicant to establish a name other than the name that appears on a source document (for example, through marriage, adoption, court order, or other mechanism permitted by State law or regulation), the State shall require evidence of the name change through the presentation of documents issued by a court, governmental body or other entity as determined by the State. The State shall maintain copies of the documentation presented pursuant to § 37.31, and maintain a record of both the recorded name and the name on the source documents in a manner to be determined by the State and in conformity with § 37.31.

(d) Date of birth. To establish date of birth, an individual must present at least one document included in paragraph (c) of this section.

(e) Social security number (SSN).

(1) Except as provided in paragraph (e)(3) of this section, individuals presenting the identity documents listed in § 37.11(c)(1) and (2) must present his or her Social Security Administration account number card; or, if a Social Security Administration account card is not available, the person may present any of the following documents bearing the applicant's SSN:

(i) A W-2 form,

(ii) A SSA-1099 form,

(iii) A non-SSA-1099 form, or

(iv) A pay stub with the applicant's name and SSN on it.

(2) The State DMV must verify the SSN pursuant to § 37.13(b)(2) of this subpart.

(3) Individuals presenting the identity document listed in § 37.11(c)(1)(vi) must present an SSN or demonstrate non-work authorized status.

(f) Documents demonstrating address of principal residence. To document the address of principal residence, a person must present at least two documents of the State's choice that include the individual's name and principal residence. A street address is required except as provided in § 37.17(f) of this part.

(g) Evidence of lawful status in the United States. A DMV may issue a REAL ID driver's license or identification card only to a person who has presented satisfactory evidence of lawful status.

(1) If the applicant presents one of the documents listed under paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(iii), (c)(1)(iv), (c)(1)(vii) or (c)(1)(viii) of this section, the issuing State's verification of the applicant's identity in the manner prescribed in § 37.13 will also provide satisfactory evidence of lawful status.

(2) If the applicant presents one of the identity documents listed under paragraphs (c)(1)(v) or (c)(1)(vi), or (c)(1)(ix) of this section, the issuing State's verification of the identity document(s) does not provide satisfactory evidence of lawful status. The applicant must also present a second document from § 37.11(g)(1) or documentation issued by DHS or other Federal agencies demonstrating lawful status as determined by USCIS. All documents shall be verified in the manner prescribed in § 37.13.

(h) Exceptions Process. A State DMV may choose to establish a written, defined exceptions process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or date of birth. Alternative documents to demonstrate lawful status will only be allowed to demonstrate U.S. citizenship.

(1) Each State establishing an exceptions process must make reasonable efforts to establish the authenticity of alternate documents each time they are presented and indicate that an exceptions process was used in the applicant's record.

(2) The State shall retain copies or images of the alternate documents accepted pursuant to § 37.31 of this part.

(3) The State shall conduct a review of the use of the exceptions process, and pursuant to subpart E of this part, prepare and submit a report with a copy of the exceptions process as part of the certification documentation detailed in § 37.55.

(i) States are not required to comply with these requirements when issuing REAL ID driver's licenses or identification cards in support of Federal, State, or local criminal justice agencies or other programs that require special licensing or identification to safeguard persons or in support of their other official duties. As directed by appropriate officials of these Federal, State, or local agencies, States should take sufficient steps to safeguard the identities of such persons. Driver's licenses and identification cards issued in support of Federal, State, or local criminal justice agencies or programs that require special licensing or identification to safeguard persons or in support of their other official duties shall not be distinguishable from other REAL ID licenses or identification cards issued by the State.

AUTHORITY: [49 U.S.C. 30301](#) note; [6 U.S.C. 111](#), [112](#).

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Code of Federal Regulations

Title 49. Transportation

Subtitle B. Other Regulations Relating to Transportation

Chapter III. Federal Motor Carrier Safety Administration, Department of Transportation (Refs & Annos)

Subchapter B. Federal Motor Carrier Safety Regulations

Part 383. Commercial Driver's License Standards; Requirements and Penalties (Refs & Annos)

Subpart E. Testing and Licensing Procedures (Refs & Annos)

49 C.F.R. § 383.71

§ 383.71 Driver application and certification procedures.

Effective: June 21, 2018

[Currentness](#)

(a) Commercial Learner's Permit. Prior to obtaining a CLP, a person must meet the following requirements:

(1) Commercial learner's permit applications submitted prior to July 8, 2015. CLPs issued prior to July 8, 2015, for limited time periods according to State requirements, shall be considered valid commercial drivers' licenses for purposes of behind-the-wheel training on public roads or highways, if the following minimum conditions are met:

(i) The learner's permit holder is at all times accompanied by the holder of a valid CDL;

(ii) He/she either holds a valid automobile driver's license, or has passed such vision, sign/symbol, and knowledge tests as the State issuing the learner's permit ordinarily administers to applicants for automotive drivers' licenses; and

(iii) He/she does not operate a commercial motor vehicle transporting hazardous materials as defined in [§ 383.5](#).

(2) Commercial learner's permit applications submitted on or after July 8, 2015. Any person applying for a CLP on or after July 8, 2015, must meet the following conditions:

(i) The person must be 18 years of age or older and provide proof of his/her age.

(ii) The person must have taken and passed a general knowledge test that meets the Federal standards contained in subparts F, G, and H of this part for the commercial motor vehicle group that person operates or expects to operate.

(iii) The person must certify that he/she is not subject to any disqualification under [§ 383.51](#), or any license disqualification under State law, and that he/she does not have a driver's license from more than one State or jurisdiction.

(iv) The person must provide to the State of issuance the information required to be included on the CLP as specified in subpart J of this part.

(v) The person must provide to the State proof of citizenship or lawful permanent residency as specified in Table 1 of this section or obtain a Non-domiciled CLP as specified in paragraph (f) of this section.

(vi) The person must provide proof that the State to which application is made is his/her State of domicile, as the term is defined in § 383.5. Acceptable proof of domicile is a document with the person's name and residential address within the State, such as a government issued tax form.

(vii) The person must provide the names of all States where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

(viii) A person seeking a passenger (P), school bus (S) or tank vehicle (N) endorsement must have taken and passed the endorsement knowledge test for the specific endorsement.

(ix) The person must provide the State the certification contained in paragraph (b)(1) of this section.

(3) Beginning on February 7, 2020, a person must complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for a Class A or B CDL for the first time, or a skills test for a passenger (P) or school bus (S) endorsement for the first time, or the knowledge test for a hazardous materials (H) endorsement for the first time. The training must be administered by a provider listed on the Training Provider Registry.

(b) Initial Commercial Driver's License. Prior to obtaining a CDL, a person must meet all of the following requirements:

(1) Initial Commercial Driver's License applications submitted on or after January 30, 2012. Any person applying for a CDL on or after January 30, 2012, must meet the requirements set forth in paragraphs (b)(2) through (10), and (h) of this section, and make one of the following applicable certifications in paragraph (b)(1)(i), (ii), (iii), or (iv) of this section:

(i) Non-excepted interstate. A person must certify that he/she operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR part 391, and is required to obtain a medical examiner's certificate by § 391.45 of this chapter;

(ii) Excepted interstate. A person must certify that he/she operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 CFR part 391, and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 of this chapter;

(iii) Non-excepted intrastate. A person must certify that he/she operates only in intrastate commerce and therefore is subject to State driver qualification requirements; or

(iv) Excepted intrastate. A person must certify that he/she operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the State driver qualification requirements.

(2) The person must pass a driving or skills test in accordance with the standards contained in subparts F, G, and H of this part taken in a motor vehicle that is representative of the type of motor vehicle the person operates or expects to operate; or provide evidence that he/she has successfully passed a driving test administered by an authorized third party.

(3) The person must certify that the motor vehicle in which the person takes the driving skills test is representative of the type of motor vehicle that person operates or expects to operate.

(4) The person must provide the State the information required to be included on the CDL as specified in subpart J of this part.

(5) The person must certify that he/she is not subject to any disqualification under § 383.51, or any license disqualification under State law, and that he/she does not have a driver's license from more than one State or jurisdiction.

(6) The person must surrender his/her non-CDL driver's licenses and CLP to the State.

(7) The person must provide the names of all States where he/she has previously been licensed to drive any type of motor vehicle during the previous 10 years.

(8) If the person is applying for a hazardous materials endorsement, he/she must comply with Transportation Security Administration requirements codified in 49 CFR part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his/her U.S. Citizenship and Immigration Services (USCIS) Alien registration number.

(9) The person must provide proof of citizenship or lawful permanent residency as specified in Table 1 of this section, or be registered under paragraph (f) of this section.

**Table 1 to § 383.71—List of Acceptable Proofs of Citizenship or Lawful Permanent Residency**

Status	Proof of status
U.S. Citizen	<ul style="list-style-type: none"> <li data-bbox="889 1703 1263 1728">• Valid, unexpired U.S. Passport.</li> <li data-bbox="889 1766 1349 1915">• Certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa or the</li> </ul>

Commonwealth of the Northern Mariana Islands.

- Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State.

- Certificate of Naturalization issued by the U.S. Department of Homeland Security (DHS).

- Certificate of Citizenship issued by DHS.

Lawful Permanent Resident

- Valid, unexpired Permanent Resident Card, issued by USCIS or INS.

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(10) The person must provide proof that the State to which application is made is his/her State of domicile, as the term is defined in § 383.5. Acceptable proof of domicile is a document with the person's name and residential address within the State, such as a government issued tax form.

(11) Beginning on February 7, 2020, a person must complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for a Class A or B CDL, a passenger (P) or school bus (S) endorsement for the first time or the knowledge test for a hazardous materials (H) endorsement for the first time. The training must be administered by a provider listed on the Training Provider Registry.

(c) License transfer. When applying to transfer a CDL from one State of domicile to a new State of domicile, an applicant must apply for a CDL from the new State of domicile within no more than 30 days after establishing his/her new domicile. The applicant must:

(1) Provide to the new State of domicile the certifications contained in paragraphs (b)(1) and (5) of this section;

(2) Provide to the new State of domicile updated information as specified in subpart J of this part;

(3) If the applicant wishes to retain a hazardous materials endorsement, he/she must comply with the requirements specified in paragraph (b)(8) of this section and State requirements as specified in § 383.73(c)(4);

(4) Surrender the CDL from the old State of domicile to the new State of domicile; and

(5) Provide the names of all States where the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years.

(6) Provide to the State proof of citizenship or lawful permanent residency as specified in Table 1 of this section, or be registered under paragraph (f) of this section.

(7) Provide proof to the State that this is his/her State of domicile, as the term is defined in § 383.5. Acceptable proof of domicile is a document with the person's name and residential address within the State, such as a government issued tax form.

(d) License renewal. When applying for a renewal of a CDL, all applicants must:

(1) Provide to the State certifications contained in paragraphs (b)(1) and (5) of this section;

(2) Provide to the State updated information as specified in subpart J of this part; and

(3) If a person wishes to retain a hazardous materials endorsement, he/she must comply with the requirements specified in paragraph (b)(8) of this section and pass the test specified in § 383.121 for such endorsement.

(4) Provide the names of all States where the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years.

(5) Provide to the State proof of citizenship or lawful permanent residency as specified in Table 1 of this section, or be registered under paragraph (f) of this section.

(6) Provide proof to the State that this is his/her State of domicile, as the term is defined in § 383.5. Acceptable proof of domicile is a document, such as a government issued tax form, with the person's name and residential address within the State.

(e) License upgrades. When applying for a CDL or an endorsement authorizing the operation of a CMV not covered by the current CDL, all applicants must:

(1) Provide the certifications specified in paragraph (b) of this section;

(2) Pass all the knowledge tests in accordance with the standards contained in subparts F, G, and H of this part and all the skills tests specified in paragraph (b)(2) of this section for the new vehicle group and/or different endorsements;

(3) Comply with the requirements specified in paragraph (b)(8) of this section to obtain a hazardous materials endorsement;

(4) Surrender the previous CDL; and

(5) Beginning on February 7, 2020, a person must complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for upgrading to a Class A or B for the first time; or adding a passenger or school

bus endorsement to a CDL for the first time; or knowledge test for hazardous materials endorsement for the first time. The training must be administered by a provider on the Training Provider Registry.

(f) Non-domiciled CLP and CDL.

(1) A person must obtain a Non-domiciled CLP or CDL:

(i) If the applicant is domiciled in a foreign jurisdiction, as defined in § 383.5, and the Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts G and H of this part.

(ii) If the applicant is domiciled in a State that is prohibited from issuing CLPs and CDLs in accordance with § 384.405 of this subchapter. That person is eligible to obtain a Non-domiciled CLP or CDL from any State that elects to issue a Non-domiciled CLP or CDL and that complies with the testing and licensing standards contained in subparts F, G, and H of this part.

(2) An applicant for a Non-domiciled CLP and CDL must do both of the following:

(i) Complete the requirements to obtain a CLP contained in paragraph (a) of this section or a CDL contained in paragraph (b) of this section. Exception: An applicant domiciled in a foreign jurisdiction must provide an unexpired employment authorization document (EAD) issued by USCIS or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required.

(ii) After receipt of the Non-domiciled CLP or CDL, and for as long as it is valid, notify the State which issued the Non-domiciled CLP or CDL of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his/her driving privileges. Such adverse actions include, but are not be limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in § 383.51. Notifications must be made within the time periods specified in § 383.33.

(3) An applicant for a Non-domiciled CLP or CDL is not required to surrender his/her foreign license.

(g) Existing CLP and CDL Holder's Self-Certification. Every person who holds a CLP or CDL must provide to the State the certification contained in § 383.71(b)(1) of this subpart.

(h) Medical certification documentation required by the State. An applicant or CLP or CDL holder who certifies to non-expected, interstate driving operations according to § 383.71(b)(1)(i) must comply with applicable requirements in paragraphs (h)(1) through (3) of this section:

(1) New CLP and CDL applicants.

(i) Before June 22, 2021, a new CLP or CDL applicant who certifies that he/she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of a medical examiner's certificate prepared by a medical examiner, as defined in [49 CFR 390.5](#), and the State will post a medical qualifications status of “certified” on the CDLIS driver record for the driver;

(ii) On or after June 22, 2021, a new CLP or CDL applicant who certifies that he/she will operate CMVs in non-excepted, interstate commerce must be medically examined and certified in accordance with [49 CFR 391.43](#) as medically qualified to operate a CMV by a medical examiner, as defined in [49 CFR 390.5](#). Upon receiving an electronic copy of the medical examiner's certificate from FMCSA, the State will post a medical qualifications status of “certified” on the CDLIS driver record for the driver;

(2) Existing CLP and CDL holders. By January 30, 2014, provide the State with an original or copy (as required by the State) of a current medical examiner's certificate prepared by a medical examiner, as defined in [49 CFR 390.5](#), and the State will post a certification status of “certified” on CDLIS driver record for the driver. If the non-excepted, interstate CLP or CDL holder fails to provide the State with a current medical examiner's certificate, the State will post a certification status of “not-certified” in the CDLIS driver record for the driver, and initiate a CLP or CDL downgrade following State procedures in accordance with [§ 383.73\(o\)\(4\)](#); and

(3) Maintaining the medical certification status of “certified.”

(i) Before June 22, 2021, in order to maintain a medical certification status of “certified,” a CLP or CDL holder who certifies that he/she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of each subsequently issued medical examiner's certificate;

(ii) On or after June 22, 2021, in order to maintain a medical certification status of “certified,” a CLP or CDL holder who certifies that he/she will operate CMVs in non-excepted, interstate commerce must continue to be medically examined and certified in accordance with [49 CFR 391.43](#) as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in [49 CFR 390.5](#). FMCSA will provide the State with an electronic copy of the medical examiner's certificate information for all subsequent medical examinations in which the driver has been deemed qualified.

(4) In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by FMCSA shall control.

#### Credits

[[67 FR 49759](#), July 31, 2002; [68 FR 23849](#), May 5, 2003; [73 FR 73123](#), Dec. 1, 2008; [75 FR 28500](#), May 21, 2010; [76 FR 26881](#), May 9, 2011; [77 FR 59825](#), Oct. 1, 2012; [78 FR 58480](#), Sept. 24, 2013; [80 FR 22810](#), April 23, 2015; [80 FR 59072](#), Oct. 1, 2015; [81 FR 88803](#), Dec. 8, 2016; [82 FR 8903](#), Feb. 1, 2017; [82 FR 14476](#), March 21, 2017; [82 FR 23516](#), May 23, 2017; [83 FR 28780](#), June 21, 2018]

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#### Notes of Decisions (5)

Current through November 8, 2018; 83 FR 55824.

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Code of Federal Regulations

Title 49. Transportation

Subtitle B. Other Regulations Relating to Transportation

Chapter III. Federal Motor Carrier Safety Administration, Department of Transportation (Refs & Annos)

Subchapter B. Federal Motor Carrier Safety Regulations

Part 383. Commercial Driver's License Standards; Requirements and Penalties (Refs & Annos)

Subpart E. Testing and Licensing Procedures (Refs & Annos)

49 C.F.R. § 383.73

§ 383.73 State procedures.

Effective: June 21, 2018

[Currentness](#)

(a) Commercial Learner's Permit.

(1) Prior to July 8, 2015. When issuing a CLP to a person prior to July 8, 2015, a State must meet the requirements in [§ 383.71\(a\)\(1\)](#):

(2) On or after July 8, 2015. Prior to issuing a CLP to a person on or after July 8, 2015, a State must:

(i) Require the applicant to make the certifications, pass the tests, and provide the information as described in [§ 383.71\(a\)\(2\)](#);

(ii) Initiate and complete a check of the applicant's driving record as described in paragraph (b)(3) of this section.

(iii) Make a CLP valid for no more than 180 days from the date of issuance and provide for renewal of a CLP for no more than an additional 180 days without the CLP holder having to retake the general and endorsement knowledge tests;

(iv) Allow only a group-specific passenger (P) and school bus (S) endorsement and tank vehicle (N) endorsement on a CLP, provided the applicant has taken and passed the knowledge test for the specified endorsement. All other Federal endorsements are prohibited on a CLP; and

(v) Complete the Social Security Number verification required by paragraph (g) of this section.

(vi) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in [§ 383.71\(a\)\(2\)\(v\)](#) and proof of State of domicile specified in [§ 383.71\(a\)\(2\)\(vi\)](#). Exception: A State is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a

CDL or Non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;

(vii)(A) Before June 22, 2021, for drivers who certified their type of driving according to § 383.71(b)(1)(i) (non-excepted interstate) and, if the CLP applicant submits a current medical examiner's certificate, date-stamp the medical examiner's certificate, and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(B) On or after June 22, 2021, for drivers who certified their type of driving according to § 383.71(b)(1)(i) (non-excepted interstate) and, if FMCSA provides current medical examiner's certificate information electronically, post all required information matching the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(b) Initial CDL. Prior to issuing a CDL to a person, a State must:

(1) Require the driver applicant to certify, pass tests, and provide information as described in § 383.71(b);

(2) Check that the vehicle in which the applicant takes his/her test is representative of the vehicle group the applicant has certified that he/she operates or expects to operate;

(3) Initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualification under § 383.51, or any license disqualification under State law, does not have a driver's license from more than one State or jurisdiction, and has completed the required training prescribed in subpart F of part 380 of this subchapter. The record check must include, but is not limited to, the following:

(i) A check of the applicant's driving record as maintained by his/her current State of licensure, if any;

(ii) A check with the CDLIS to determine whether the driver applicant already has been issued a CDL, whether the applicant's license has been disqualified, or if the applicant has been disqualified from operating a commercial motor vehicle; and beginning February 7, 2020, before an applicant is issued a Class A or Class B CDL, or a passenger (P), school bus (S), or hazardous materials (H) endorsement, whether the applicant has completed the training required by subpart F of part 380 of this subchapter;

(iii) A check with the Problem Driver Pointer System (PDPS) to determine whether the driver applicant has:

(A) Been disqualified from operating a motor vehicle (other than a commercial motor vehicle);

(B) Had a license (other than CDL) disqualified for cause in the 3-year period ending on the date of application;  
or

- (C) Been convicted of any offenses contained in [49 U.S.C. 30304\(a\)\(3\)](#);
- (iv) A request for the applicant's complete driving record from all States where the applicant was previously licensed over the last 10 years to drive any type of motor vehicle. Exception: A State is only required to make the request for the complete driving record specified in this paragraph for initial issuance of a CLP, transfer of CDL from another State or for drivers renewing a CDL for the first time after September 30, 2002, provided a notation is made on the driver's record confirming that the driver record check required by this paragraph has been made and noting the date it was done;
- (v) Beginning January 30, 2012, a check that the medical certification status of a driver that self-certified according to [§ 383.71\(b\)\(1\)\(i\)](#) of this chapter (non-excepted interstate) is “certified;”
- (4) Require the driver applicant to surrender his/her non-CDL driver's license and CLP;
- (5)(i) Before June 22, 2021, for drivers who certified their type of driving according to [§ 383.71\(b\)\(1\)\(i\)](#) (non-excepted interstate) and, if the CDL holder submits a current medical examiner's certificate, date-stamp the medical examiner's certificate and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.
- (ii) On or after June 22, 2021, for drivers who certified their type of driving according to [§ 383.71\(b\)\(1\)\(i\)](#) (non-excepted interstate) and, if FMCSA provides current medical examiner's certificate information electronically, post all required information matching the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.
- (6) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in [§ 383.71\(b\)\(9\)](#) and proof of State of domicile specified in [§ 383.71\(b\)\(10\)](#). Exception: A State is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or Non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;
- (7) If not previously done, complete the Social Security Number verification required by paragraph (g) of this section;
- (8) For persons applying for a hazardous materials endorsement, require compliance with the standards for such endorsement specified in [§§ 383.71\(b\)\(8\)](#) and [383.141](#);
- (9) Make the CDL valid for no more than 8 years from the date of issuance; and
- (10) Beginning January 6, 2020, request information from the Drug and Alcohol Clearinghouse in accordance with [§ 382.725](#) of this chapter.

(11) Beginning on February 7, 2020, not conduct a skills test of an applicant for a Class A or Class B CDL, or a passenger (P) or school bus (S) endorsement until the State verifies electronically that the applicant completed the training prescribed in subpart F of part 380 of this subchapter.

(c) License transfers. Prior to issuing a CDL to a person who has a CDL from another State, a State must:

(1) Require the driver applicant to make the certifications contained in [§ 383.71\(b\)\(1\)](#) and (5);

(2) Complete a check of the driver applicant's record as contained in paragraph (b)(3) of this section;

(3) Request and receive updates of information specified in subpart J of this part;

(4) If such applicant wishes to retain a hazardous materials endorsement, require compliance with standards for such endorsement specified in [§§ 383.71\(b\)\(8\)](#) and [383.141](#) and ensure that the driver has, within the 2 years preceding the transfer, either:

(i) Passed the test for such endorsement specified in [§ 383.121](#); or

(ii) Successfully completed a hazardous materials test or training that is given by a third party and that is deemed by the State to substantially cover the same knowledge base as that described in [§ 383.121](#);

(5) If not previously done, complete the Social Security Number verification required by paragraph (g) of this section;

(6) Require the applicant to surrender the CDL issued by the applicant's previous State of domicile;

(7) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in [§ 383.71\(b\)\(9\)](#) and proof of State of domicile specified in [§ 383.71\(b\)\(10\)](#). Exception: A State is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or Non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;

(8) Beginning January 30, 2012, verify from the CDLIS driver record that the medical certification status of driver is "certified" for those who certified according to [§ 383.71\(b\)\(1\)\(i\)](#). Exception: A driver who certified according to [§ 383.71\(b\)\(1\)\(i\)](#) that he/she plans to operate in non-excepted interstate commerce may present a current medical examiner's certificate issued prior to January 30, 2012. The medical examiner's certificate provided by the driver must be posted to the CDLIS driver record in accordance with paragraph (o) of this section;

(9) Make the CDL valid for no more than 8 years from the date of issuance; and

(10) Beginning January 6, 2020, request information from the Drug and Alcohol Clearinghouse in accordance with § 382.725 of this chapter.

(d) License Renewals. Prior to renewing any CDL a State must:

(1) Require the driver applicant to make the certifications contained in § 383.71(b);

(2) Complete a check of the driver applicant's record as contained in paragraph (b)(3) of this section;

(3) Request and receive updates of information specified in subpart J of this part;

(4) If such applicant wishes to retain a hazardous materials endorsement, require the driver to pass the test specified in § 383.121 and comply with the standards specified in §§ 383.71(b)(8) and 383.141 for such endorsement;

(5) If not previously done, complete the Social Security Number verification required by paragraph (g) of this section;

(6) Make the renewal of the CDL valid for no more than 8 years from the date of issuance;

(7) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of State of domicile specified in § 383.71(b)(10). Exception: A State is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or Non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;

(8) Beginning January 30, 2012, verify from the CDLIS driver record that the medical certification status is "certified" for drivers who self-certified according to § 383.71(b)(1)(i). Exception: A driver who certified according to § 383.71(b)(1)(i) may present a current medical examiner's certificate issued prior to January 30, 2012. The medical examiner's certificate provided by the driver must be posted to the CDLIS driver record in accordance with paragraph (o) of this section; and

(9) Beginning January 6, 2020, request information from the Drug and Alcohol Clearinghouse in accordance with § 382.725 of this chapter.

(e) License upgrades. Prior to issuing an upgrade of a CDL, a State must:

(1) Require such driver applicant to provide certifications, pass tests, and meet applicable hazardous materials standards specified in § 383.71(e);

(2) Complete a check of the driver applicant's record as described in paragraph (b)(3) of this section;

(3) If not previously done, complete the Social Security Number verification required by paragraph (g) of this section;

(4) Require the driver applicant to surrender his/her previous CDL;

(5) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of State of domicile specified in § 383.71(b)(10). Exception: A State is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade, or transfer of a CDL or Non-domiciled CDL, for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done;

(6) Beginning January 30, 2012, verify from the CDLIS driver record that the medical certification status is "certified" for drivers who self-certified according to § 383.71(b)(1)(i). Exception: A driver who certified according to § 383.71(b)(1)(i) may present a current medical examiner's certificate issued prior to January 30, 2012. The medical examiner's certificate provided by the driver must be posted to the CDLIS driver record in accordance with paragraph (o) of this section;

(7) Make the CDL valid for no more than 8 years from the date of issuance; and

(8) Beginning January 6, 2020, request information from the Drug and Alcohol Clearinghouse in accordance with § 382.725 of this chapter.

(9) Beginning on February 7, 2020, not issue an upgrade to a Class A or Class B CDL, or a passenger (P), school bus (S), or hazardous materials (H) endorsement, unless the applicant has completed the training required by subpart F of part 380 of this subchapter.

(f) Non-domiciled CLP and CDL.

(1) A State may only issue a Non-domiciled CLP or CDL to a person who meets one of the circumstances described in § 383.71(f)(1).

(2) State procedures for the issuance of a non-domiciled CLP and CDL, for any modifications thereto, and for notifications to the CDLIS must at a minimum be identical to those pertaining to any other CLP or CDL, with the following exceptions:

(i) If the applicant is requesting a transfer of his/her Non-domiciled CDL, the State must obtain the Non-domiciled CDL currently held by the applicant and issued by another State;

(ii) The State must add the word “non-domiciled” to the face of the CLP or CDL, in accordance with § 383.153(c); and

(iii) The State must have established, prior to issuing any Non-domiciled CLP or CDL, the practical capability of disqualifying the holder of any Non-domiciled CLP or CDL, by withdrawing or disqualifying his/her Non-domiciled CLP or CDL as if the Non-domiciled CLP or CDL were a CLP or CDL issued to a person domiciled in the State.

(3) The State must require compliance with the standards for providing proof of legal presence specified in § 383.71(b)(9) and § 383.71(f)(2)(i).

(4) Beginning January 6, 2020, for drivers seeking issuance, renewal, upgrade or transfer of a non-domiciled CDL, request information from the Drug and Alcohol Clearinghouse in accordance with § 382.725 of this chapter.

(g) Social Security Number verification.

(1) Prior to issuing a CLP or a CDL to a person the State must verify the name, date of birth, and Social Security Number provided by the applicant with the information on file with the Social Security Administration. The State is prohibited from issuing, renewing, upgrading, or transferring a CLP or CDL if the Social Security Administration database does not match the applicant-provided data.

(2) Exception. A State is only required to perform the Social Security Number verification specified in this paragraph for initial issuance of a CLP, transfer of CDL from another State or for drivers renewing a CDL for the first time after July 8, 2011 who have not previously had their Social Security Number information verified, provided a notation is made on the driver's record confirming that the verification required by this paragraph has been made and noting the date it was done.

(h) License issuance. After the State has completed the procedures described in paragraphs (a) through (g) of this section, as applicable, it may issue a CLP or CDL to the driver applicant. The State must notify the operator of the CDLIS of such issuance, transfer, renewal, or upgrade within the 10–day period beginning on the date of license issuance.

(i) Surrender procedure. A State may return a surrendered license to a driver after physically marking it so that it cannot be mistaken for a valid document. Simply punching a hole in the expiration date of the document is insufficient. A document perforated with the word “VOID” is considered invalidated.

(j) Penalties for false information. If a State determines, in its check of an applicant's license status and record prior to issuing a CLP or CDL, or at any time after the CLP or CDL is issued, that the applicant has falsified information contained in subpart J of this part, in any of the certifications required in § 383.71(b) or (g), or in any of the documents required to be submitted by § 383.71(h), the State must at a minimum disqualify the person's CLP or CDL or his/her

pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.

(k) Drivers convicted of fraud related to the testing and issuance of a CLP or CDL.

(1) The State must have policies in effect that result, at a minimum, in the disqualification of the CLP or CDL of a person who has been convicted of fraud related to the issuance of that CLP or CDL. The application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained CLP or CDL must also, at a minimum, be disqualified. The State must record any such withdrawal in the person's driving record. The person may not reapply for a new CDL for at least 1 year.

(2) If a State receives credible information that a CLP- or CDL-holder is suspected, but has not been convicted, of fraud related to the issuance of his/her CLP or CDL, the State must require the driver to re-take the skills and/or knowledge tests. Within 30 days of receiving notification from the State that re-testing is necessary, the affected CLP- or CDL-holder must make an appointment or otherwise schedule to take the next available test. If the CLP- or CDL-holder fails to make an appointment within 30 days, the State must disqualify his/her CLP or CDL. If the driver fails either the knowledge or skills test or does not take the test, the State must disqualify his/her CLP or CDL. Once a CLP- or CDL-holder's CLP or CDL has been disqualified, he/she must reapply for a CLP or CDL under State procedures applicable to all CLP and CDL applicants.

(l) Reciprocity. A State must allow any person who has a valid CLP, CDL, Non-domiciled CLP, or Non-domiciled CDL and who is not disqualified from operating a CMV, to operate a CMV in the State.

(m) Document verification. The State must require at least two persons within the driver licensing agency to participate substantively in the processing and verification of the documents involved in the licensing process for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or Non-domiciled CDL. The documents being processed and verified must include, at a minimum, those provided by the applicant to prove legal presence and domicile, the information filled out on the application form, and knowledge and skills test scores. This section does not require two people to process or verify each document involved in the licensing process. Exception: For offices with only one staff member, at least some of the documents must be processed or verified by a supervisor before issuance or, when a supervisor is not available, copies must be made of some of the documents involved in the licensing process and a supervisor must verify them within one business day of issuance of the CLP, Non-domiciled CLP, CDL or Non-domiciled CDL.

(n) Computer system controls. The State must establish computer system controls that will:

(1) Prevent the issuance of an initial, renewed or upgraded CLP or an initial, renewed, upgraded, or transferred CDL when the results of transactions indicate the applicant is unqualified. These controls, at a minimum, must be established for the following transactions: State, CDLIS, and PDPS driver record checks; and Social Security Number verification. Knowledge and skills test scores verification controls must be established for an initial, renewed, or upgraded CDL.



(2) Suspend the issuance process whenever State, CDLIS, and/or PDPS driver record checks return suspect results. The State must demonstrate that it has a system to detect and prevent fraud when a driver record check returns suspect results. At a minimum, the system must ensure that:

(i) The results are not connected to a violation of any State or local law relating to motor vehicle traffic control (other than parking, vehicle weight, or vehicle defect violations);

(ii) The name of the persons performing the record check and authorizing the issuance, and the justification for the authorization are documented by the State; and

(iii) The person performing the record check and the person authorizing the issuance are not the same.

(o) Medical recordkeeping—

(1)(i) Status of CLP or CDL holder. Before June 22, 2021, for each operator of a commercial motor vehicle required to have a CLP or CDL, the current licensing State must:

(A) Post the driver's self-certification of type of driving under § 383.71(b)(1) to the CDLIS driver record;

(B) Post the information from the medical examiner's certificate within 10 calendar days to the CDLIS driver record, including:

(1) Medical examiner's name;

(2) Medical examiner's telephone number;

(3) Date of medical examiner's certificate issuance;

(4) Medical examiner's license number and the State that issued it;

(5) Medical examiner's National Registry identification number;

(6) The indicator of medical certification status, i.e., “certified” or “not-certified”;

(7) Expiration date of the medical examiner's certificate;

(8) Existence of any medical variance on the medical examiner's certificate, such as an exemption, SPE certification, or grandfather provisions;

(9) Any restrictions (e.g., corrective lenses, hearing aid, required to have possession of an exemption letter or SPE certificate while on-duty, etc.); and

(10) Date the medical examiner's certificate information was posted to the CDLIS driver record; and

(C) Post the medical variance information within 10 calendar days to the CDLIS driver record, including:

(1) Date of medical variance issuance; and

(2) Expiration date of medical variance;

(D) Retain the original or a copy of the medical examiner's certificate of any driver required to provide documentation of physical qualification for 3 years beyond the date the certificate was issued.

(ii) Status of CLP or CDL holder. On or after June 22, 2021, for each operator of a commercial motor vehicle required to have a CLP or CDL, the current licensing State must:

(A) Post the driver's self-certification of type of driving under [§ 383.71\(b\)\(1\)](#) to the CDLIS driver record;

(B) Post the information from the medical examiner's certificate received from FMCSA to the CDLIS driver record, including:

(1) Medical examiner's name;

(2) Medical examiner's telephone number;

(3) Date of medical examiner's certificate issuance;

(4) Medical examiner's license number and the State that issued it;

(5) Medical examiner's National Registry identification number;

(6) The indicator of medical certification status, i.e., "certified" or "not-certified";

(7) Expiration date of the medical examiner's certificate;

(8) Existence of any medical variance on the medical examiner's certificate, such as an exemption, Skill Performance Evaluation (SPE) certification, or grandfather provisions;

(9) Any restrictions (e.g., corrective lenses, hearing aid, required to have possession of an exemption letter or SPE certificate while on-duty, etc.); and

(10) Date the medical examiner's certificate information was posted to the CDLIS driver record;

(C) Post the medical variance information received from FMCSA within 1 business day to the CDLIS driver record, including:

(1) Date of medical variance issuance; and

(2) Expiration date of medical variance;

(D) Retain the electronic record of the medical examiner's certificate information for any driver required to have documentation of physical qualification for 3 years beyond the date the certificate was issued.

(2) Status update.

(i) Before June 22, 2021, the State must, within 10 calendar days of the driver's medical examiner's certificate or medical variance expiring, the medical variance being rescinded or the medical examiner's certificate being voided by FMCSA, update the medical certification status of that driver as "not certified."

(ii) On or after June 22, 2021, the State must, within 10 calendar days of the driver's medical examiner's certificate or medical variance expiring, the medical examiner's certificate becoming invalid, the medical variance being rescinded or the medical examiner's certificate being voided by FMCSA, update the medical certification status of that driver as "not certified."

(3) Variance update.

(i) Before June 22, 2021, within 10 calendar days of receiving information from FMCSA regarding issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(ii) On or after June 22, 2021, within 1 business day of electronically receiving medical variance information from FMCSA regarding the issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(4) Downgrade.

(i) If a driver's medical certification or medical variance expires, or FMCSA notifies the State that a medical certification was invalidated or voided or a medical variance was removed or rescinded, the State must:

(A)(1) Before June 22, 2021, notify the CLP or CDL holder of his/her CLP or CDL “not-certified” medical certification status and that the CMV privileges will be removed from the CLP or CDL unless the driver submits a current medical examiner's certificate and/or medical variance, or changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State);

(2) On or after June 22, 2021, notify the CLP or CDL holder of his/her CLP or CDL “not-certified” medical certification status and that the CMV privileges will be removed from the CLP or CDL unless the driver has been medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in 49 CFR 390.5, or the driver changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State).

(B) Initiate established State procedures for downgrading the CLP or CDL. The CLP or CDL downgrade must be completed and recorded within 60 days of the driver's medical certification status becoming “not-certified” to operate a CMV.

(ii)(A) Before June 22, 2021, if a driver fails to provide the State with the certification contained in § 383.71(b)(1), or a current medical examiner's certificate if the driver self-certifies according to § 383.71(b)(1)(i) that he/she is operating in non-excepted interstate commerce as required by § 383.71(h), the State must mark that CDLIS driver record as “not-certified” and initiate a CLP or CDL downgrade following State procedures in accordance with paragraph (o)(4)(i)(B) of this section.

(B) On or after June 22, 2021, if a driver fails to provide the State with the certification contained in § 383.71(b)(1), or, if the driver self-certifies according to § 383.71(b)(1)(i) that he/she is operating in non-excepted interstate commerce as required by § 383.71(h) and the information required by paragraph (o)(2)(ii) of this section is not received and posted, the State must mark that CDLIS driver record as “not-certified” and initiate a CLP or CDL downgrade following State procedures in accordance with paragraph (o)(4)(i)(B) of this section.

(5) FMCSA Medical Programs is designated as the keeper of the list of State contacts for receiving medical variance information from FMCSA. Beginning January 30, 2012, States are responsible for insuring their medical variance contact information is always up-to-date with FMCSA's Medical Programs.

(6) In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by FMCSA shall control.

(p) After February 7, 2020, the State must notify FMCSA that a training provider in the State does not meet applicable State requirements for CMV instruction.

**Credits**

[[54 FR 40788](#), Oct. 3, 1989; [66 FR 49872](#), Oct. 1, 2001; [67 FR 49760](#), July 31, 2002; [68 FR 23850](#), May 5, 2003; [73 FR 73124](#), Dec. 1, 2008; [75 FR 28501](#), May 21, 2010; [76 FR 26883](#), May 9, 2011; [77 FR 24127](#), April 20, 2012; [78 FR 17880](#), March 25, 2013; [78 FR 58480](#), Sept. 24, 2013; [79 FR 59456](#), Oct. 2, 2014; [80 FR 22810](#), April 23, 2015; [80 FR 35577](#), June 22, 2015; [80 FR 59072](#), Oct. 1, 2015; [81 FR 87730](#), Dec. 5, 2016; [81 FR 88803](#), Dec. 8, 2016; [82 FR 2916](#), Jan. 10, 2017; [82 FR 8903](#), Feb. 1, 2017; [82 FR 14476](#), March 21, 2017; [82 FR 23516](#), May 23, 2017; [83 FR 22876](#), May 17, 2018; [83 FR 28781](#), June 21, 2018]

AUTHORITY: [49 U.S.C. 521, 31136, 31301 et seq., and 31502](#); secs. 214 and 215 of Pub.L 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of [Pub.L. 107–56](#); 115 Stat. 272, 297, sec. 4140 of [Pub.L. 109–59, 119 Stat. 1144](#), 1746; sec. 32934 of [Pub.L. 112–141, 126 Stat. 405](#), 830; secs. 5401 and 7208 of Pub.L. 114– 94, 129 Stat. 1312, 1546, 1593; and [49 CFR 1.87](#).

Current through November 8, 2018; 83 FR 55824.