



ATA SUMMARY

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FMCSA'S PROPOSED RULE ON COMMERCIAL DRIVER'S LICENSE TESTING & COMMERCIAL LEARNER'S PERMIT STANDARDS

On April 9, 2008, the Federal Motor Carrier Safety Administration (FMCSA) published in the *Federal Register* a Notice of Proposed Rulemaking (NPRM) to: establish new minimum standards for States to issue Commercial Learner's permits (CLPs); to revise the commercial driver's license (CDL) knowledge and skills testing standards; and, to improve anti-fraud measures within the CDL program. The provisions in the rulemaking are mandated by three separate federal statutes and incorporate recommendations from two reports from the DOT's Office of Inspector General. States would be required to implement the proposed rule three years after it becomes effective. The deadline for comments to the proposed rule is June 9, 2008.

The following is a summary of the proposed rule:

I. Update of Federal Knowledge and Skills Test Standards

Incorporates by reference the latest version of the American Association of Motor Vehicle Administrator's (AAMVA) model CDL test package (Version 2005) into the federal regulation for CDL knowledge and test skills. Prohibits "banking" parts of the skills test (a student must successfully pass all three components of the skills test at one time); includes 20 general areas on the knowledge test; and, adds more details to the list of skills that must be demonstrated during the CDL skills tests. FMCSA also proposes to add a new category on the knowledge test that would require the applicant to know general operating practices and procedures for all endorsements.

Requires that CLP applicants successfully complete the CDL knowledge test prior to license issuance. States are also required to record and retain the knowledge and skills test scores for each applicant – the test scores would have to be verified before the issuance of a CLP or CDL. Additionally, as a fraud protection measure, CLPs and CDLs would be mailed to the address presented on the driver's application.

Prohibits the use of foreign language interpreters in administering the knowledge and skills test. Knowledge tests may be interpreted through written, recorded and automated tests. The NPRM regards the use of interpreters in skills testing as a safety issue rather than a language accommodation. The agency's justification for this premise is supported by its contention that an immediate response to verbal commands and instructions in English by a skills test examiner is vital to public safety.

II. Issuance of and Standards for CLPs and CDLs

Establishes a minimum age of 18 for the issuance of a CLP and subjects the CLP holder to the same rules as a CDL driver. CLP holders who have been convicted of violations in section 383.51, whether or not the violation occurs in a CMV or non-CMV, would be unable to operate a CMV on public roads until the end of the full disqualification period for the non-CMV offense. CLP holders would also be subject to the implied consent to alcohol testing requirements.

Each applicant must obtain a CLP and hold it for a minimum of 30 days prior to applying for a CDL. According to the FMCSA, this hold would allow the applicant to obtain skills training/practice and would possibly have an effect on the thoroughness of the training period.

The CLP must be a separate, tamper-proof document than the CDL or non-CDL and must include the same information as a CDL. Restriction codes, vehicle groups and endorsements for which the driver has passed a knowledge test should be printed on the CLP, including the license number of the underlying CDL or non-CDL. The CLP must include a statement that the learners permit is not valid unless accompanied by a qualified CDL holder.

The only endorsement allowable on a CLP is a restricted (P) passenger endorsement. The CLP holder with the (P) is not allowed to operate a CMV carrying passengers. Citing safety reasons, the NPRM would further prohibit any other endorsements on a CLP. CLP holders wishing to develop skills on double/triple vehicles, tank vehicles and hazmat vehicles must first obtain a CDL and then have additional training.

Assigns new, standardized restriction and endorsement codes/ clarifies tank endorsement. Proposes to develop standardized restriction codes for driver an applicant who uses a vehicle in the skills test that is equipped with: (1) an automatic transmission, (2) air over hydraulic brakes or (3) a non-fifth wheel. A standardized restriction code would also be developed for the current air brake restriction. To clarify the existing disparity between permanently attached tanks and temporarily attached portable tanks for purposes of obtaining a tank endorsement, the NPRM proposes and standardizes a capacity threshold of 1,000 or more gallons for all tanks before a driver would need a tank endorsement.

Each State would be required to create a Commercial Drivers Licensing Information System (CDLIS) record for each CLP application. Prior to issuing a CLP the State must check the driver's previous driving record using both CDLIS and the Problem Driver Pointer system (PDPS). Discovery of prior motor vehicle violations (subject to section 383.51), would disqualify the CLP applicant from receiving the learners permit.

Requires States to recognize CLPs issued by other States for training purposes. FMCSA proposes that someone who holds a CDL or non-CDL in his/her State of domicile should obtain a CLP from that State and then be allowed to obtain training in any State. The NPRM provides for:

- the individual to take the skills test in the State where the training was conducted
- the State of training sends the skills test results to the State of domicile
- *However*, this plan is contingent upon whether the driver's State of domicile accepts the results of a CDL skills test taken out-of-State.

The agency contends that the new proposed federal minimum skills test standards (Entry-Level Driver Training Standards NPRM, 12/2007) will encourage States to accept the skills test of another State.

Limits and standardizes the initial and renewal periods for the CLP and CDL. Requires States to retain a digitized photo of the driver. CLP's would be valid for 180 days. To accommodate students who don't pass the CDL skills test for the first time, students are allowed to renew their CLP for an additional 90 days. CDL's must be renewed at least once in an eight year period, updating information on the drivers license, producing a new photograph of the driver and checking the driver's driving record.

Clarifies under what circumstances an applicant must surrender his/her CLP, CDL or non-CDL. FMCSA proposes to expand the current license surrender requirements to include: any transaction where a CLP is being upgraded; a CDL that is being initially issued, upgraded, or transferred. Surrendered licenses must be specifically marked "VOID."

Adds a new requirement for CLP reciprocity. Similar to CDLs, the CLP could only be issued by the State of domicile but must be recognized by all States.

III. Fraud Prevention Measures

Requires States to verify with the Social Security Administration the applicants' social security numbers. This would only be required to be performed once on a CLP or CDL applicant if there is a notation in the driver's record of the completed SSN verification.

CLP and CDL applicants must prove their legal presence and legal domicile in the U.S. and to present certain documentation. Document verification under the proposal would be the same as the document verification process required to obtain hazardous materials endorsements (section 383.71(a)(9)).

State and third party test examiners (including those at motor carriers) must receive initial and annual background checks; undergo formal training; and, receive and maintain certification. NPRM imposes new, initial and refresher training and testing requirements for examiners. The State would be required to maintain records of the training and certification of the examiners.

Requires establishment of oversight systems for all examiners and testers. This would require States to conduct unannounced, annual on-site inspections; both covert and overt monitoring of examiners; and the establishment of state databases for maintaining

inspection information. These additional anti-fraud components would also be reviewed during a FMCSA CDL-compliance review.

IV. Safety Fitness Procedures

In determining the safety fitness of motor carrier, the NPRM proposes to assign an “acute violation” to a motor carrier that allows a driver to operate a CMV without a CLP, CDL or without the appropriate endorsement.

For additional information about the proposed rule, please contact ccullinan@trucking.org.