

**§ 384.229 Skills test examiner auditing and monitoring.**

To ensure the integrity of the CDL skills testing program, the State must:

(a) At least once every 2 years, conduct unannounced, on-site inspections of third party testers' and examiners' records, including comparison of the CDL skills test results of applicants who are issued CDLs with the CDL scoring sheets that are maintained in the third party testers' files;

(b) At least once every 2 years, conduct covert and overt monitoring of examinations performed by State and third party CDL skills test examiners.

(c) Establish and maintain a database to track pass/fail rates of applicants tested by each State and third party CDL skills test examiner, in order to focus covert and overt monitoring on examiners who have unusually high pass or failure rates;

(d) Establish and maintain a database of all third party testers and examiners, which at a minimum tracks the dates and results of audits and monitoring actions by the State, the dates third party testers were certified by the State, and name and identification number of each third party CDL skills test examiner;

(e) Establish and maintain a database of all State CDL skills examiners, which at a minimum tracks the dates and results of monitoring action by the State, and the name and identification number of each State CDL skills examiner; and

(f) Establish and maintain a database that tracks skills tests administered by each State and third party CDL skills test examiner's name and identification number.

[76 FR 26896, May 9, 2011, as amended at 78 FR 58481, Sept. 24, 2013; 79 FR 59456, Oct. 2, 2014]

**§ 384.230 Entry-level driver certification.**

(a) Beginning on February 7, 2022, a State must comply with the requirements of § 383.73(b)(3)(ii), (b)(10), and (e)(8) to verify that the applicant completed the training prescribed in subpart F of part 380.

(b)(1) A State may issue a CDL to individuals who obtain a CLP before February 7, 2022, who have not complied

with subpart F of part 380 of this subchapter so long as they obtain a CDL before the CLP or renewed CLP expires.

(2) A State may not issue a CDL to individuals who obtain a CLP on or after February 7, 2022, unless they comply with subpart F of part 380 of this subchapter.

[81 FR 88803, Dec. 8, 2016, as amended at 85 FR 6101, Feb. 4, 2020]

**§ 384.231 Satisfaction of State disqualification requirement.**

(a) *Applicability.* The provisions of §§ 384.203, 384.206(b), 384.210, 384.213, 384.215 through 384.219, 384.221 through 384.224, and 384.231 of this part apply to the State of licensure of the person affected by the provision. The provisions of § 384.210 of this part also apply to any State to which a person makes application for a transfer CDL.

(b) *Required action—(1) CLP or CDL holders.* A State must satisfy the requirement of this subpart that the State disqualify a person who holds a CLP or a CDL by, at a minimum, disqualifying the person's CLP or CDL for the applicable period of disqualification.

(2) *A person required to have a CLP or CDL.* A State must satisfy the requirement of this subpart that the State disqualify a person required to have a CLP or CDL who is convicted of an offense or offenses necessitating disqualification under § 383.51 of this subchapter. At a minimum, the State must implement the limitation on licensing provisions of § 384.210 and the timing and recordkeeping requirements of paragraphs (c) and (d) of this section so as to prevent such a person from legally obtaining a CLP or CDL from any State during the applicable disqualification period(s) specified in this subpart.

(c) *Required timing.* The State must disqualify a driver as expeditiously as possible.

(d) *Recordkeeping requirements.* The State must conform to the requirements of the CDLIS State Procedures Manual (incorporated by reference in § 384.107(b).) These requirements include the maintenance of such driver records and driver identification data on the CDLIS as the FMCSA finds are

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necessary to the implementation and enforcement of the disqualifications called for in §§ 384.215 through 384.219, and 384.221 through 384.224 of this part.

[67 FR 49762, July 31, 2002, as amended at 73 FR 73126, Dec. 1, 2008; 76 FR 26896, May 9, 2011]

### § 384.232 Required timing of record checks.

The State shall perform the record checks prescribed in §§ 384.205, 384.206, and 384.220, no earlier than 10 days prior to issuance for licenses issued before October 1, 1995. For licenses issued after September 30, 1995, the State shall perform the record checks no earlier than 24 hours prior to issuance if the license is issued to a driver who does not currently possess a valid CDL from the same State and no earlier than 10 days prior to issuance for all other drivers.

### § 384.233 Background records checks.

(a) The State shall comply with Transportation Security Administration requirements concerning background records checks for drivers seeking to obtain, renew, transfer or upgrade a hazardous materials endorsement in 49 CFR Part 1572, to the extent those provisions impose requirements on the State.

(b) The State shall comply with each requirement of 49 CFR 383.141.

[68 FR 23850, May 5, 2003]

### § 384.234 Driver medical certification recordkeeping.

The State must meet the medical certification recordkeeping requirements of § 383.73(a)(2)(vii), (b)(5), (c)(8), (d)(8), (e)(6) and (o).

[80 FR 22812, Apr. 23, 2015]

### § 384.235 Commercial driver's license Drug and Alcohol Clearinghouse.

Beginning January 6, 2023, the State must request information from the Clearinghouse in accordance with § 383.73 of this chapter.

[81 FR 87730, Dec. 5, 2016, as amended at 84 FR 68057, Dec. 13, 2019]

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### § 384.236 Entry-level driver training provider notification.

The State must meet the entry-level driver training provider notification requirement of § 383.73(p).

[81 FR 88803, Dec. 8, 2016; 82 FR 2916, Jan. 10, 2017]

## Subpart C—Procedures for Determining State Compliance

### § 384.301 Substantial compliance-general requirements.

(a) To be in substantial compliance with 49 U.S.C. 31311(a), a State must meet each and every standard of subpart B of this part by means of the demonstrable combined effect of its statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments (facilities, equipment, and personnel), and enforcement practices.

(b)(1) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of September 30, 2002 as soon as practical, but, unless otherwise specifically provided in this part, not later than September 30, 2005.

(2) *Exception.* A State must come into substantial compliance with 49 CFR 383.123 not later than September 30, 2006.

(c) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of September 4, 2007 as soon as practical but, unless otherwise specifically provided in this part, not later than September 4, 2010.

(d) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of January 30, 2009, as soon as practical, but not later than January 30, 2012.

(e) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of October 27, 2010 as soon as practical, but not later than October 28, 2013.

(f) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of July 8, 2011 and April 24, 2013 as soon as