

Subpart D—Consequences of State Noncompliance

- 384.401 Withholding of funds based on non-compliance.
- 384.403 Period of availability; effect of compliance and noncompliance.
- 384.405 Decertification of State CDL program.
- 384.407 [Reserved]
- 384.409 Notification of noncompliance.

AUTHORITY: 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

SOURCE: 59 FR 26039, May 18, 1994, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 384 appear at 66 FR 49872, Oct. 1, 2001.

Subpart A—General

§ 384.101 Purpose and scope.

(a) *Purpose.* The purpose of this part is to ensure that the States comply with the provisions of section 12009(a) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 31311(a)).

(b) *Scope.* This part:

- (1) Includes the minimum standards for the actions States must take to be in substantial compliance with each of the 22 requirements of 49 U.S.C. 31311(a);
- (2) Establishes procedures for determinations to be made of such compliance by States; and
- (3) Specifies the consequences of State noncompliance.

[62 FR 37152, July 11, 1997]

§ 384.103 Applicability.

The rules in this part apply to all States.

§ 384.105 Definitions.

(a) The definitions in part 383 of this title apply to this part, except where otherwise specifically noted.

(b) As used in this part:

CDLIS motor vehicle record (CDLIS MVR) means a report generated from the CDLIS driver record meeting the requirements for access to CDLIS information and provided by States to users authorized in §384.225(e)(3) and (4), subject to the provisions of the

Driver Privacy Protection Act, 18 U.S.C. 2721–2725.

Issue and issuance means the initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and the initial issuance, renewal, upgrade or transfer of a CDL or Non-domiciled CDL, as described in §383.73 of this subchapter.

Licensing entity means the agency of State government that is authorized to issue drivers' licenses.

Year of noncompliance means any Federal fiscal year during which—

(1) A State fails to submit timely certification as prescribed in subpart C of this part; or

(2) The State does not meet one or more of the standards of subpart B of this part, based on a final determination by the FMCSA under §384.307(c) of this part.

[59 FR 26039, May 18, 1994, as amended at 73 FR 73125, Dec. 1, 2008; 76 FR 26893, May 9, 2011; 78 FR 17881, Mar. 25, 2013]

§ 384.107 Matter incorporated by reference.

(a) *Incorporation by reference.* This part includes references to certain matter or materials. The text of the materials is not included in the regulations contained in this part. The materials are hereby made a part of the regulations in this part. The Director of the Office of the Federal Register has approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For materials subject to change, only the specific version approved by the Director of the Office of the Federal Register and specified in the regulation are incorporated. Material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the FEDERAL REGISTER. All of the materials incorporated by reference are available from the sources listed below and available for inspection at the Department of Transportation Library, 1200 New Jersey Ave. SE., Washington, DC 20590–0001; telephone is (202) 366–0746. These documents are also available for inspection and copying as provided in 49 CFR part 7. They are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of

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this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>.

(b) The American Association of Motor Vehicle Administrators (AAMVA), 4301 Wilson Boulevard, Suite 400, Arlington, VA 22203, (703) 522-1300, <http://www.aamva.org>.

(1) “Commercial Driver’s License Information System (CDLIS) State Procedures Manual,” Release 5.3.2.1, August 2013, incorporation by reference approved for §§ 384.225(f) and 384.231(d).

(2) [Reserved]

[79 FR 59456, Oct. 2, 2014]

Subpart B—Minimum Standards for Substantial Compliance by States

§ 384.201 Testing program.

(a) The State shall adopt and administer a program for testing and ensuring the fitness of persons to operate commercial motor vehicles (CMVs) in accordance with the minimum Federal standards contained in part 383 of this title.

(b) To obtain a copy of FMCSA pre-approved State Testing System referenced in §§ 383.131, 383.133 and 383.135, State Driver Licensing Agencies may contact: FMCSA, CDL Division, 1200 New Jersey Avenue, SE, Washington DC 20590.

[76 FR 26893, May 9, 2011]

§ 384.202 Test standards.

No State shall authorize a person to operate a CMV unless such person passes a knowledge and driving skills test for the operation of a CMV in accordance with part 383 of this title.

§ 384.203 Driving while under the influence.

(a) The State must have in effect and enforce through licensing sanctions the disqualifications prescribed in § 383.51(b) of this subchapter for driving a CMV with a 0.04 alcohol concentration.

(b) Nothing in this section shall be construed to require a State to apply its criminal or other sanctions for driving under the influence to a person

found to have operated a CMV with an alcohol concentration of 0.04, except licensing sanctions including suspension, revocation, or cancellation.

(c) A State that enacts and enforces through licensing sanctions the disqualifications prescribed in § 383.51(b) of this subchapter for driving a CMV with a 0.04 alcohol concentration and gives full faith and credit to the disqualification of CMV drivers by other States shall be deemed in substantial compliance with section 12009(a)(3) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 31311(a)(3)).

[67 FR 49761, July 31, 2002]

§ 384.204 CLP or CDL issuance and information.

(a) *General rule.* The State shall authorize a person to operate a CMV only by issuance of a CLP or CDL, unless an exception in § 383.3(c) or (d) applies, which contains, at a minimum, the information specified in part 383, subpart J, of this subchapter.

(b) *Exceptions—(1) Training.* The State may authorize a person who does not hold a CDL valid for the type of vehicle in which training occurs to undergo behind-the-wheel training in a CMV only by means of a CLP issued and used in accordance with § 383.25 of this subchapter.

(2) *Confiscation of CLP or CDL pending enforcement.* A State may allow a CLP or CDL holder whose CLP or CDL is held in trust by that State or any other State in the course of enforcement of the motor vehicle traffic code, but who has not been convicted of a disqualifying offense under § 383.51 of this subchapter based on such enforcement, to drive a CMV while holding a dated receipt for such CLP or CDL.

[76 FR 26894, May 9, 2011]

§ 384.205 CDLIS information.

Before issuing a CLP or a CDL to any person, the State must, within the period of time specified in § 384.232, perform the check of the Commercial Driver’s License Information System (CDLIS) in accordance with § 383.73(b)(3)(ii) of this subchapter, and,