



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

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Washington, DC 20590

Revised Expanded Frequently Asked Questions for State Driver Licensing Agencies and Commercial Drivers Regarding Permissible Actions During the COVID-19 Emergency

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The Federal Motor Carrier Safety Administration (FMCSA) has compiled this list of responses to frequently asked questions (FAQs) regarding actions State Driver Licensing Agencies (SDLA) or commercial driver's license holders may take during the national emergency related to the coronavirus disease 2019 (COVID-19) public health emergency that are permissible under the Federal Motor Carrier Safety Regulations (FMCSRs).

This guidance document does not have the force and effect of law and is not meant to bind the public in any way. This guidance is intended only to provide clarity regarding existing requirements under the law.

State Issuance of Commercial Learner's Permits (CLPs) and Commercial Driver's Licenses (CDLs)

Question 1: Does FMCSA's Emergency Declaration exempt States from the regulatory requirements in 49 CFR parts 383 and 384?

Answer 1: No. Emergency declarations issued by the FMCSA pursuant to 49 CFR 390.23(a), providing relief from certain regulatory requirements during an emergency, are applicable only to 49 CFR parts 390 through 399.

Question 2: May an SDLA use a contractor to issue or renew CLP credentials?

Answer 2: Yes. The FMCSRs do not prohibit an SDLA from using a contractor as its agent to issue or renew CLP credentials. The SDLA must ensure that the requirements relating to the issuance and renewal of the CLP, as set forth in 49 CFR parts 383 and 384, are met, including checking the Commercial Driver's License Information System (CDLIS) and adding pointers to CDLIS.

Question 3: FMCSA's Waiver in Response to the COVID-19 National Emergency for States, CDL Holders, CLP Holders, and Interstate Drivers Operating Commercial Motor Vehicles, effective March 1, 2021, waives the requirement that the State change the medical certification status to "not certified" or

downgrade a CDL or CLP driver whose Medical Examiner's Certificate has expired. Will there be a grace period for States to come back into compliance?

Answer 3: States should make returning to compliance a priority. The waiver expires on May 31, 2021, and SDLAs must bring their CDL and CLP issuance and medical certification practices back into conformance by that date. SDLAs that remain unable to do so should contact the FMCSA Division Office in their State.

Question 4: If a State issues restricted or temporary CDLs for drivers in farm-related service industries, in accordance with 49 CFR 383.3(f), during the harvesting season and the State is unable to issue plastic CDL credentials due to SDLA office closures, may the State issue paper credentials?

Answer 4: Yes. The FMCSRs do not require SDLAs to issue plastic licensing credentials. However, SDLAs must issue licensing credentials in accordance with the requirements of 49 CFR part 383, subpart J.

Question 5: If an SDLA renews a CLP or CDL online, may the SDLA keep the same photograph for an additional renewal cycle?

Answer 5: Yes. The FMCSRs do not prohibit SDLAs from reusing the driver's photo from the previous CLP/CDL.

Endorsements

Question 6: If an SDLA renews a CDL online during the COVID-19 national emergency and the driver holds a Hazardous Materials (HM) endorsement, may the SDLA also renew the HM endorsement without requiring the driver to retake the HM knowledge test as required under 383.71(d)(3)?

Answer 6: No. Commercial drivers who wish to retain an HM endorsement during CDL renewal are required to retake the HM knowledge test in accordance with 49 CFR 383.71(d)(3) and 383.73(d)(4). FMCSA has not issued a waiver or an exemption from this requirement.

Question 7: May National Guard members who hold a civilian CDL operate a passenger bus if they do not have a passenger/school bus endorsement?

Answer 7: Yes. In accordance with 49 CFR 383.3(c), National Guard members who are on active duty and are operating a commercial motor vehicle (CMV) for military purposes are exempt from all CDL requirements in 49 CFR part 383.

Question 8: May National Guard members drive CMVs delivering emergency equipment, medical supplies, food, and other essential material in support of the response to the COVID-19 national emergency from a regional

distribution center to a local distribution center, if they do not have a civilian CDL?

Answer 8: Yes, if the National Guard member is on active duty and is operating the CMV for military purposes. In accordance with 49 CFR 383.3(c), members of the National Guard who are on active duty and are operating a CMV for military purposes are exempt from the CDL requirements and therefore would not need a civilian CDL to transport the goods.

Question 9: During the COVID-19 national emergency, may an SDLA issue a double/triple trailer endorsement without requiring a driver to pass the knowledge test required by 49 CFR 383.93?

Answer 9: No. In accordance with 49 CFR 383.93, the State shall only issue a double/triple trailer endorsement to a driver who successfully completes the knowledge test. FMCSA has not issued a waiver or exemption from this requirement.

Medical Examiner's Certificates (MEC)

Question 10: During the COVID-19 national emergency, may an SDLA issue a CLP or CDL to a new driver applicant who does not have, and has never held, a Medical Examiner's Certificate?

Answer 10: No. Driver applicants who have never held a CLP or CDL must meet all the qualification requirements of 49 CFR part 383 in order to be issued a CLP or CDL. FMCSA's most recent waiver, effective March 1, 2021, applies to drivers with an expired medical certificate if the driver had a valid medical certificate issued for a period of 90 days or longer that expired on or after December 1, 2020. A driver applicant who has never held a medical certificate is not covered by the waiver.

Question 11: If an SDLA's computer system automatically changes a driver's medical certification status from "certified" to "not certified" or automatically downgrades a driver's CDL or CLP when the driver's Medical Examiner's Certificate expires, may the driver continue operating a CMV in commerce during the COVID-19 national emergency?

Answer 11: Yes, if FMCSA's Waiver or Notice of Enforcement Policy, effective March 1, 2021, applies. As explained therein, FMCSA will not take enforcement action against a driver with an expired medical certificate if the driver had a valid medical certificate issued for a period of 90 days or longer that expired on or after December 1, 2020.

Testing CDL/CLP Applicants

Question 12: Under FMCSA’s Emergency Declaration, may an SDLA issue a CLP or CDL to a driver without requiring the driver to take a skills test?

Answer 12: No. The Emergency Declaration issued by the FMCSA pursuant to 49 CFR 390.23(a)(1)(i) is only applicable to 49 CFR parts 390 through 399. In accordance with 49 CFR 384.202, the State shall only issue a CLP or CDL to a driver who has passed the knowledge and skills tests required by part 383, unless an exception applies.

Question 13: In light of the current COVID-19 national emergency and the need to comply with social distancing guidelines, may States leverage technology (e.g., Bluetooth, in-cab cameras, cell phones) to administer the CDL skills test in a way that allows the examiners to not be physically present in the cab of the vehicle with the driver applicant while conducting the on-road test segment?

Answer 13: In accordance with 49 CFR 383.131(b), SDLAs must administer tests using a test examiner information manual that FMCSA determines is comparable to AAMVA’s 2005 CDL Test System Model CDL Manual (AAMVA Model). The AAMVA Model specifies that to complete the on-road segment of the skills test, the examiner must observe a driver applicant’s operation of the vehicle and provide instruction. However, in light of the COVID-19 national emergency, and the need to integrate U.S. Centers for Disease Control and Prevention (CDC) guidance while ensuring the continued movement of emergency supplies and equipment during the pandemic, FMCSA is encouraging SDLAs to test drivers while practicing social distancing.

As such, FMCSA encourages States that wish to administer the skills test without the examiner being physically present in the test vehicle submit a plan to the Agency and explain how their administration of the test will be comparable to the AAMVA Model. The plan should detail how the State intends to (i) administer the test without compromising safety, (ii) observe the skills test from a second vehicle, (iii) leverage technology, and (iv) score the road test, along with (v) any other information the State believes will help FMCSA determine whether the test administration is comparable to the AAMVA Model. States may wish to consider, for example, either having two employees in a sufficiently large follow vehicle (seated six feet apart) or else having one employee in a follow vehicle while a recording device that is set up on the vehicle records the test, viewing the applicant’s performance after the examiner has stopped driving, and then immediately deleting the recording. FMCSA will consider such plans until May 31, 2021.

Question 14: A number of States are experiencing greater than normal employee absences or have closed offices of their SDLAs in response to the guidance from the CDC to use social distancing to reduce the spread of COVID-19. May States leverage technology (e.g., cameras, video proctoring, cell phones, online testing) to administer the CDL knowledge tests and not be physically present?

Answer 14: In accordance with 49 CFR 383.131(b), SDLAs must administer tests using a test examiner information manual that FMCSA determines is comparable to AAMVA’s 2005 CDL Test System Model CDL Manual (AAMVA Model). FMCSA is encouraging SDLAs to continue to knowledge test drivers while practicing social distancing.

As such, FMCSA encourages States that wish to administer the knowledge test without the examiner being physically present to submit a plan to the Agency and explain how their administration of the test will be comparable to the AAMVA Model. The plan should detail how the State intends to (i) administer the test without compromising safety, (ii) observe the knowledge test without being physically present, (iii) leverage technology, and (iv) verify a test taker’s identity, along with (v) any other information the State believes will help FMCSA determine whether the test administration is comparable to the AAMVA Model. FMCSA will consider such plans until May 31, 2021.

Miscellaneous State Requirements

Question 15: Will the States be found in noncompliance with Title VI of the Civil Rights Act of 1964 and related DOT regulations if they must close SDLA locations because of the COVID-19 national emergency?

Answer 15: Federal financial assistance recipients or grantees must submit a Title VI Program Compliance Plan (Plan), which includes a section titled “Community Participation Process.” The purpose of the section is to ensure that grantees do not take actions that cause a marked diminution of available services and facilities offered. FMCSA understands the significant challenges presented by the COVID-19 national emergency; however, each grantee should follow the Community Participation Process set forth in the Plan and provide the most detailed communications possible to affected customers.

States should email Lester Finkle, FMCSA Title VI Coordinator, at lester.finkle@dot.gov and Yvette Rivera, Associate Director, U.S. Department of Transportation, Departmental Office of Civil Rights, EquityandAccessConcerns@dot.gov, for additional guidance.

FMCSA’s Expanded Emergency Declaration: For a listing of resources related to the COVID-19 public health emergency, please go to: <https://www.fmcsa.dot.gov/COVID-19>. For additional information, please contact: FMCSADeclaration@dot.gov.