FMCSA-STCDL-384-FAQ01(2023-02-13)

**Part 384 – State Compliance with Commercial Driver’s License Programs**

**States’ Voluntary Use of Third Party Knowledge Test Examiners**

**Third Party Knowledge Testing FAQ**

**Question 1:** Are there recommended best practices if a State permits a third party examiner to administer CDL knowledge tests?

**Guidance:**Yes.

On February 3, 2022, FMCSA issued regulatory guidance clarifying that States may allow third party knowledge examiners to administer CDL knowledge tests in accordance with existing knowledge test standards and methods in 49 CFR subparts G and H (87 FR 6045); see, also FMCSA-CDL-383.75-Q01(2022-02-03). As noted in the guidance, FMCSA is currently developing a Notice of Proposed Rulemaking to address States’ voluntary use of third party knowledge examiners. In the interim, while there are no regulatory requirements currently applicable to States opting to rely on third party knowledge examiners, there are voluntary actions States can take to maintain the integrity of the CDL knowledge testing program:

***Section § 384.228: Examiner Training and Record Checks***

FMCSA encourages States to follow certain training and record check standards currently applicable to State and third party skills examiners, as set forth in 49 CFR 384.228. These include:

* having third party test examiners successfully complete a CDL test examiner training course providing an overview of the commercial licensing and testing requirements in 49 CFR part 383, including general and specialized knowledge test and test administration, before administering CDL knowledge tests; and
* conducting nationwide criminal background check of third party knowledge test examiners before allowing them to administer CDL knowledge tests; individuals with felony convictions within the last ten years, or fraud-related convictions, should not administer knowledge tests. (This recommendation does not include certified third party skills examiners who have already been subject to a background check under 49 CFR 384.228(h) and are administering knowledge tests).

***Section 384.229: Skills Test Examiner Auditing and Monitoring***

FMCSA also encourages States to follow applicable auditing and monitoring provisions of 49 CFR 384.229, which currently apply only to State and third party skills test examiners, when using third party knowledge examiners. These include:

* conducting unannounced, on-site inspections of third party testers' and examiners' records;
* conducting covert and overt monitoring of examinations performed by State and third party test examiners;
* tracking pass/fail rates of applicants tested by each State and third party test examiner to focus covert and overt monitoring on examiners who have unusually high pass or failure rates; and
* tracking the dates and results of any auditing or monitoring conducted by the State.

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*Note: This guidance document does not have the force and effect of law and is not meant to bind the public in any way. It is intended only to provide information and clarity regarding existing requirements under the law or agency policies.*

**Regulatory Topic: States’ Voluntary Use of Third Party Knowledge Test Examiners**

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