

THE COMMERCIAL DRIVER'S LICENSE TASK FORCE

REPORT TO CONGRESS

A Report Pursuant to Section 4135
of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
Public Law 109-59
December 2008

Section 4135 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) directed the U.S. Secretary of Transportation to convene a task force to study and address current impediments and foreseeable challenges to the Commercial Driver's License (CDL) program. The section also directed the Secretary to complete a report of the task force findings and recommendations for legislative, regulatory, and enforcement changes to improve the CDL program.

The CDL Advisory Committee (the Task Force) members included State motor vehicle administrators, organizations representing government agencies or officials, members of the judicial conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders. Each member represented one of the numerous stakeholders that need to be involved in identifying and ultimately implementing lasting program improvements.

The work of the Task Force offers the Federal Motor Carrier Safety Administration (FMCSA) an opportunity to use its safety partnerships and work cooperatively to improve the CDL program. While FMCSA is already taking some action to implement a number of Task Force recommendations, others are still under review. This document provides a brief overview of the initiatives FMCSA is already implementing to address many of the concerns identified by the Task Force.

The FMCSA recognizes the significant role the driver plays in reducing commercial motor vehicle (CMV) crashes. The FMCSA continues to expand its programs to place more focus on improving the performance of drivers. The implementation of CDL-related provisions of the Transportation Equity Act for the 21st Century, the Motor Carrier Safety Improvement Act of 1999, the Security and Accountability for Every Port Act of 2006, and SAFETEA-LU will significantly improve the CDL program's effectiveness by preventing unqualified drivers from obtaining a CDL and removing problem drivers from the road.

Initiatives already undertaken include a set of revised and updated standards for CDL knowledge and skill testing, additional disqualifying offenses, higher initial sanctions and monetary penalties for violations of out-of-service orders, and a modernization of the Commercial Driver License Information System (CDLIS) to ensure more accurate, complete, and timely conviction and disqualification data on every CDL holder.

In addition, more structured and uniform commercial learner's permit (CLP) standards are proposed in the Agency's CLP notice of proposed rulemaking (NPRM) that was published in the

Federal Register on April 9, 2008. The NPRM proposes knowledge testing, in order to receive a CLP, and the recording of the CLP on CDLIS before the issuance of the permit. The NPRM also proposes uniform issuance and renewal periods for CLPs. In the area of fraud detection and prevention, it is proposed that States be required to take a more active role in detecting and preventing testing and issuance fraud through more complete recordkeeping and oversight of State and third-party test examiners, including both overt and covert reviews of skills testing and issuance procedures.

With the increased emphasis being placed on driver performance, FMCSA information systems are being expanded to better track driver data.

Consistent with the Task Force recommendations, FMCSA is developing and implementing minimum training and qualification standards, increasing training opportunities, expanding the use of electronic tools, simplifying CDL-related regulations, developing more focused judicial outreach program, and developing technologies that will provide employers with easy access to their drivers' license information.

Training and Qualification Standards

The FMCSA published an NPRM on December 26, 2007, proposing to revise the standards for mandatory training requirements for entry-level operators of CMVs in interstate operations who are required to possess a valid CDL. Under the proposed requirements, the State driver licensing agency would only issue a CDL if the applicant presented a valid Driver Training Certificate obtained from an accredited institution or program. Additionally, FMCSA continues to work with the American Association of Motor Vehicle Administrators and the States to expand training opportunities to Federal and State staff through the development of web-based and classroom training sessions designed to give participants a better understanding of the Federal and State regulations and ensure consistent and uniform application of CDL requirements.

Judicial Outreach Program

To improve CMV enforcement and the identification of problem CMV drivers, FMCSA and the National Judicial College (NJC) developed and implemented a comprehensive Judicial Outreach Program to provide specialized training to judges on the importance of CMV enforcement and adjudication of CDL cases as a means of ensuring highway safety. As part of this effort, the NJC, in cooperation with FMCSA, developed and launched a comprehensive Web site (www.cdlresources.org) for judges and traffic court personnel that adjudicate motor vehicles cases. The site includes Federal and State CDL and CMV regulations and statutes, case studies, and relevant publications and articles. In an effort to reach more judges, FMCSA is working with NJC to develop and maintain a web-based distance-learning course for judges and traffic court personnel who cannot attend the courses offered at NJC. Additionally, the NJC, in cooperation with FMCSA, will conduct specialized CDL judicial training in various State locations to increase the dissemination of CDL-related information and to ensure more judges are able to obtain this important information.

Electronic Tools

The FMCSA continues to encourage the use and development of electronic information exchange among State agencies, including the development and use of electronic citations during roadside stops. This will minimize the danger to drivers and enforcement officers during roadside stops. Other benefits of electronic citations include data validation to minimize or eliminate errors or insufficient information captured on the citation. Further, the citation can be transmitted more quickly to the courts and administrative tribunals for scheduled hearings or dispositions. The FMCSA also encouraged the development and use of electronic exchange of conviction information. This will expedite reporting and posting of conviction information on the driver's record.

The FMCSA implemented a demonstration program to explore expanding the use of employer notification systems to provide employers more timely information about the license status of their drivers. Implementation of employer notification systems will allow carriers to register their drivers with State licensing agencies and then be notified when a driver's CDL status changes or is suspended. Generally, motor carriers review the driver's CDL status annually by obtaining a copy of the driver's record from the licensing agency. Commercial drivers are also required to self-report traffic violations, convictions, or license status changes to their employer. Unfortunately, these self-reports are not always made by some drivers. An employer notification process allows carriers to take timely action to address any unsafe driving behaviors.

The FMCSA and the U.S. Department of Homeland Security (DHS) continue to work cooperatively to implement the provisions of the REAL ID Act of 2005 establishing minimum Federal driver licensing standards that affect both CDL and non-CDL drivers. The REAL ID standards build on the CDL program and include requirements and activities that States are already implementing for CDL drivers. Coordination of these two efforts will be maintained to ensure that REAL ID and CDLIS modernization are implemented in a coordinated fashion to minimize the burden on the States. In particular, FMCSA and DHS have a significant opportunity to leverage existing resources and procedures to implement REAL ID requirements and allow States to use the modernized CDLIS as a platform for implementing the REAL ID requirements rather than compel States to develop a separate system for REAL ID purposes. From an efficiency perspective, a single system reduces costs and allows States to realize economies of scale by developing and maintaining one set of programs and procedures for the issuance of CDL and non-CDL documents.

To help military personnel transition into civilian careers requiring a CDL, FMCSA has initiated discussions with the U.S. Department of Defense (DOD) to explore the possibility of establishing a career credentialing and licensing program within the military that would help individuals transition their military driving experience into a civilian career as a CDL driver. The goal is to develop and implement DOD training, testing, and licensing standards compatible with the standards used by the States.

The current rulemaking being developed in response to the Motor Carrier Safety Improvement Act requirements proposed that driver license applicants be required to provide a copy of the medical certificate and that States be required to record the status of the medical certificate on

the driver's record. The FMCSA recognizes that building the capability for medical examiners to transmit examination results electronically will result in a process that is more convenient to the driver and at the same time discourages the creation of fraudulent medical certification documents. The FMCSA fully intends to address this requirement in separate future rulemakings.

Previously, drivers subject to Title 49 Code of Federal Regulations Part 391 were not required by the CDL regulations to provide any documentation of physical qualification to operate a CMV in interstate commerce to the State driver licensing agency, such as an original or copy of the Federally mandated medical certificate or one issued in compliance with State requirements. There was also no requirement for the State driver licensing agency to post driver physical qualification information as part of the CDL licensing process. This rule is a first step toward establishing a process to record information about the medical certification of drivers subject to physical qualification requirements as part of CDLIS driver records. This rulemaking also represents a critical first step in building a more comprehensive program, responsive to the Task Force's concerns, which will include a national registry of qualified medical examiners, the capability for States to electronically access the registry, and the capability for medical examiners to transmit and for the States to receive medical certification information electronically.

Some drivers who test positive for drugs or alcohol in employer-administered testing evade mandated rehabilitation or other sanctions because a new employer is unaware of the positive tests. A driver who fails a pre-employment drug test just applies for another job without the positive results being recorded because the company testing the driver was not the employer at the time of the test. Some drivers who test positive for drugs or alcohol while employed may also evade mandated rehabilitation or other sanctions by applying for a job at a different company and not listing the previous employer on his or her job application. The FMCSA is considering comprehensive requirements for a potential national database of CDL holders who test positive for drugs or alcohol or who refuse to submit to a mandatory test. Also, FMCSA is currently considering requiring Medical Review Officers to submit confirmed positive controlled substances test results to the Agency, as well as follow-up tests stemming from the initial positive test.

The Task Force agreed that the existing CDL program is a highly effective highway safety program that needs incremental improvements rather than major modifications or restructuring. Through the current and future implementation of CDL-related recommendations offered by the Task Force, the CDL program will become even more effective in achieving its safety goals. The FMCSA approaches the challenges presented by the Task Force for improving the CDL program with enthusiasm and commitment and looks forward to working with Congress and its safety partners to address the concerns and recommendations included in the report.

**COMMERCIAL DRIVER'S LICENSE PROGRAM REVIEW:
RECOMMENDED MEASURES FOR ACHIEVING THE PROGRAM'S
FULL SAFETY POTENTIAL**

Developed with assistance from
The American Association of Motor Vehicle Administrators
Arlington, Virginia

December 2008

Table of Contents

Acknowledgments.....	i
1.0 Executive Summary	1
1.1 Findings	2
1.2 Recommendations.....	2
1.3 Task Force Conclusions.....	5
2.0 Introduction.....	6
2.1 Task Force Membership	6
2.2 Methodology.....	7
2.3 History of the Commercial Driver’s License Program.....	9
3.0 Task Force Findings.....	11
3.1 State Enforcement Practices	11
3.2 Operational Procedures to Detect and Deter Fraud	13
3.3 Needed Improvements for Seamless Information Sharing between States, and Effective Methods for Accurately Sharing Electronic Data between States	21
3.4 Adequate Proof of Citizenship.....	23
3.5 Updated Technology.....	23
3.6 Timely Notification from Judicial Bodies Concerning Traffic and Criminal Convictions of Commercial Driver’s License Holders	25
3.7 Background Checks for Hazardous Materials Endorsements.....	26
3.8 REAL ID and the Commercial Driver’s License Program.....	27
3.9 State Driver Licensing Agency Compliance	27
3.10 Driver Training	28
3.11 Department of Defense Drivers and the Commercial Driver’s License Program	30
3.12 Employer Access to Driver Records.....	30
4.0 Task Force Recommendations.....	32
5.0 Conclusion	42

Acknowledgments

Section 4135 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59) directed the U.S. Secretary of Transportation to convene a task force to study and address current impediments and foreseeable challenges to the Commercial Driver's License (CDL) program. The task force members included State motor vehicle administrators, organizations representing government agencies or officials, members of the judicial conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

The work of the CDL Advisory Committee offers the Federal Motor Carrier Safety Administration (FMCSA) an opportunity to use its safety partnerships and work cooperatively to improve the CDL program. Congress recognized the need to combine our respective knowledge, experiences, and energies by identifying specific interest groups to serve on the advisory committee. Each member represented one of the numerous stakeholders that need to be involved in identifying and ultimately implementing lasting program improvements.

The Task Force extends its appreciation to the following individuals and organizations for their assistance in completing this effort and preparing this report.

Commercial Driver's License Advisory Committee

Designated Federal Official

William A. Quade, Associate Administrator
Enforcement and Program Delivery
Federal Motor Carrier Safety Administration

Task Force Facilitator

Jay Maxwell, President
Clerus Solutions, LLC

Task Force Members

Victor G. Baffoni, Vice General Chair
United Transportation Union
(representing Los Angeles County
Metropolitan Transit Authority)

Robert H. Burroughs, Assistant Chief
Driver's License Division
Texas Department of Public Safety

Stephen F. Campbell, Executive Director
Commercial Vehicle Safety Alliance

John L. Conley, President
National Tank Truck Carriers

Gerald A. Donaldson, Senior Research Director
Advocates for Highway and Auto Safety

Anne S. Ferro, President and CEO
Maryland Motor Truck Association

Joan D. Gay, Executive Director
North American Driver Safety Foundation

John C. Grant, Manager
Division of State and Provincial Police
International Association of Chiefs of Police

Claudia Mellott-Koerner, Manager
Motor Carrier Services Division
Indiana Department of Revenue

Kevin O'Brien, Director
Motor Carrier and Driver Safety Services
New York Department of Motor Vehicles

Patricia Olshefski, Director
School Related Personnel Division
American Federation of Teachers

Victor S. Parra, President and CEO
United Motor Coach Association

Joseph F. Rajkovicz, Regulatory Affairs
Specialist Board Member
Owner Operator Independent Drivers
Association, Inc.

Joanna W. Liberman Turner, Senior Legislative
Associate
National Governors Association

Hon. G. Michael Witte, Judge
Dearborn Superior Court #1
Lawrenceburg, Indiana

FMCSA CDL Resource Group

Robert Redmond, Senior Transportation Specialist
Commercial Driver's License Division
Federal Motor Carrier Safety Administration

Dominick Spataro, Chief
Commercial Driver's License Division
Federal Motor Carrier Safety Administration

Lloyd Goldsmith, Transportation Specialist
Commercial Driver's License Division
Federal Motor Carrier Safety Administration

Technical Consultant
G. Michael Lentz, President
Economic Data Resources

Committee Support Staff

Kevin Lewis
American Association of Motor Vehicle
Administrators

Karen Morton
American Association of Motor Vehicle
Administrators

1.0 Executive Summary

The U.S. Secretary of Transportation formed the Commercial Driver's License Advisory Committee (the Task Force) as mandated in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 4135. The Task Force was directed to study and address current impediments and foreseeable challenges to the Commercial Driver's License (CDL) program under the auspices of the Federal Motor Carrier Safety Administration (FMCSA) in the U.S. Department of Transportation (DOT). As instructed by Congress, the Task Force comprised State motor vehicle administrators and members of organizations representing government agencies, officials, members of the judicial conference, safety advocates, and representatives of the trucking industry and labor organizations, plus other significant stakeholders with an interest in the CDL program. The SAFETEA-LU also directed the Secretary to complete a report of the task force findings and recommendations for legislative, regulatory, and enforcement changes to improve the CDL program. This report fulfills that directive.

The Task Force convened four times. Through the course of deliberations over 11 days during a 5-month period, Task Force members discussed issues and problems affecting their respective constituencies, focusing especially on areas that tend to inhibit the effectiveness of the CDL program. This report summarizes those difficulties and describes program vulnerabilities.

The Task Force members agreed that the existing CDL program is a highly effective highway safety program that needs incremental improvements rather than major modifications or restructuring. The CDL program has been effective at limiting commercial motor vehicle (CMV) operators to a single CDL. By advancing regulatory and enforcement standards and developing and operating the Commercial Driver's License Information System (CDLIS), the CDL program has provided the means and impetus for removing unsafe drivers from the Nation's highways.

The CDL program is responsible for a vast reduction in the number of CDL holders who have multiple licenses of any type. By limiting CMV operators to one license, the CDL program has thwarted the practice of spreading convictions among driver records maintained by multiple States. The States have accomplished the objective of maintaining a single record of all Commercial Motor Vehicle Safety Act of 1986 (CMVSA) convictions, which has identified CMV operators with multiple convictions and allowed States to impose disqualification penalties on them.

State CDL compliance reviews conducted by FMCSA indicate that all States have revised their laws in an effort to harmonize them with the set of violations listed in CMVSA. The harmonization effort accomplished legal equivalency among many States concerning convictions for CMVSA violations.

The knowledge and skills testing requirements associated with obtaining a CDL provided State driver licensing agencies (SDLA) with a mechanism to have CDL applicants meet Federal standards mandated for CDL knowledge and skills testing. Motor carriers and CMV drivers stated that in many cases, the drivers who retired or found other work when the CDL program

was implemented were considered poor or dangerous drivers. There was a net positive safety benefit in having these problem drivers leave the profession.

Most officers in the States who commonly deal with CDL traffic enforcement have received sufficient training and information so that they are familiar with CDL requirements and know which types of vehicles being driven require a CDL and endorsements. County and municipal officers who typically do not target CMV traffic are generally less well trained. Similarly, a number of traffic court judges have some familiarity with CDL requirements, and their staff members are trained to report CMV operator convictions to their respective SDLA. The Task Force proposes that more training, education, and support should be provided to traffic court judges, prosecutors and court personnel, and to personnel in State and Federal criminal courts. These judges and staff are generally less knowledgeable of the CDL program because they handle relatively fewer cases involving CMV operators.

1.1 Findings

To assist stakeholders meet the objectives of the CDL program, the Task Force recommends that FMCSA focus on the following actions:

- Execute existing CDL program fundamentals.
- Implement recommended incremental program improvements.
- Provide stakeholders with additional automated tools.
- Use technology advances.

The Task Force further recognizes that many of the improvements proposed in this report would require additional financial resources for CDL stakeholders to implement. Federal funding will be needed to assist the stakeholders in meeting the concomitant financial obligations. In some cases, additional statutory authority or regulatory actions will also be needed in order to fully implement the Task Force recommendations.

1.2 Recommendations

The Task Force made numerous detailed operational recommendations for enhancement or improvement of the CDL program and systems. The following sections summarize the primary Task Force recommendations. Section 3 gives detailed background information and discusses program issues. Section 4 discusses the details of each recommendation.

The Task Force identified two special considerations:

- Task Force recommendations in this report address fraud as it has been identified to date. Now FMCSA should monitor the various parties involved in CMV licensing and operations to ensure the continued effectiveness of existing antifraud measures. The FMCSA and its State partners should determine whether other fraudulent practices emerge over time, and then develop mechanisms to combat these practices. The FMCSA should identify and promote best practices in the areas of license application, testing, and CDL document production to decrease the fraudulent issuance of CDLs.

- The FMCSA has been reluctant in the past to sanction States for noncompliance with CDL program standards and practices. The Task Force encourages FMCSA to actively use its sanctioning authority to enforce State compliance with CDL regulations.

Recommendation #1: Increase and expand the FMCSA CDL training program.

The FMCSA should increase and expand its CDL training program to encompass all major CDL stakeholders and plan to execute that program continuously in all facets of the CDL program.

Recommendation #2: Extend and expand the use of electronic tools.

The FMCSA should extend and expand the implementation, deployment, and use of electronic tools by the major CDL stakeholders in order to facilitate the real-time exchange of accurate, complete, and timely information.

Recommendation #3: Expand the Commercial Driver's License Program Improvement (CDLPI) grant program.

The FMCSA should expand the CDLPI grant program to encourage and fund CDL improvements and encourage State implementation of and compliance with the CDL program goals and standards.

Recommendation #4: Separate the background check from the hazardous materials endorsement.

The fingerprint-based background record check imposed on drivers by the Transportation Security Administration (TSA) to obtain a hazardous material endorsement is costly and duplicative. It should be replaced with a process that requires drivers to obtain a Transportation Worker Identification Credential (TWIC). The TWIC would certify drivers to haul hazardous or safety-sensitive materials (as designated by DOT and TSA) through a process established by TSA separate from the CDL program.

Recommendation #5: Implement a nationwide drug and alcohol positive-test reporting program.

A standardized mandatory, nationwide drug and alcohol positive-test and test refusal reporting and tracking program should be established and applicable to employers and CDL holders currently subject to mandatory drug and alcohol testing. The results of positive tests and test refusals should remain in the driver's record according to standardized retention criteria to preclude the driver from evading mandated rehabilitation programs or other sanctions.

Recommendation #6: Integrate medical certification tracking with the CDL.

The pending rulemaking proposal to begin integrating the tracking of medical certification status information with the CDL program by recording driver reported medical certification status on the CDLIS driver record should be strengthened. It should

be enhanced to prevent fraud through augmentation of CDLIS to provide seamless information system capabilities for medical examiners to report all examination results electronically to the SDLA using CDLIS.

Recommendation #7: Create an interim list of medical examiners pending establishment of the National Medical Registry of Certified Medical Examiners (NRCME).

The FMCSA should establish a list of medical examiners authorized to perform CMV medical examinations as part of the current rulemaking (Medical Certification Requirements as Part of the CDL). Use of the list should be integrated with the tracking of recommendation 6. The list design should be coordinated with NRCME so that it can be incorporated seamlessly into that system as the registry is further developed and implemented.

Recommendation #8: Develop a focused judicial outreach program.

To address problems with the 10-day conviction reporting requirement, FMCSA should undertake a focused, multiyear program of education and training, to provide funding to the States for the deployment of judicial case management information systems.

Recommendation #9: Coordinate the CDL program with the REAL ID Program.

The FMCSA and the U.S. Department of Homeland Security (DHS) should work to ensure that REAL ID and CDLIS modernization are developed in a coordinated fashion that maximizes each program's success while reducing the compliance costs and efforts for the States.

Recommendation #10: Prepare Department of Defense drivers for CDL.

The FMCSA should work with the U.S. Department of Defense to establish a driver training and testing program for military personnel that includes minimum knowledge and skills requirements, comparable to those expected of civilian commercial drivers.

Recommendation #11: Implement a nationwide proactive employer notification system.

The FMCSA should pursue the establishment of an employer notification system to notify employers of CMV operators' convictions and withdrawals. Beyond requiring employers to check the records of their drivers at least once annually, these systems provide employers with information on the license status of their drivers. Any employer notification system should be designed to provide the current level of privacy protection to drivers and to protect the revenue stream to States.

Recommendation #12: Develop and implement minimum training and qualification standards.

The FMCSA should develop and implement minimum training and qualification standards for drivers, driving trainers, and driver test examiners. The FMCSA should explore the Graduated CDL as a part of the process of establishing performance-based, minimum entry-level CMV driver training.

Recommendation #13: Simplify FMCSA regulations.

The FMCSA should review and revise the Federal Motor Carrier Safety Regulations (FMCSRs) to simplify them and clarify the imposition of penalties on States.

Recommendation 14: Report Convictions Electronically.

The FMCSA should require that convictions of CDL drivers be reported to the licensing State (State-of-Record) using CDLIS.

Recommendation #15: Review CDL program staffing levels.

The FMCSA should review CDL program staffing levels in the Service Centers and adjust these to account for potential workload and appropriate service levels.

1.3 Task Force Conclusions

Political and financial constraints may be the most significant inhibiting factors to successfully addressing the existing vulnerabilities for the CDL program. Having multiple governmental entities involved in the program requires a continual, focused outreach program to coordinate, educate, and motivate CDL program stakeholders. Because the program competes for the limited resources of each stakeholder and for grant monies available from the Federal Government, the Task Force encourages Congress and FMCSA to establish or enhance programs that fund improvements being implemented for the CDL program by its stakeholders.

2.0 Introduction

Section 4135 of SAFETEA-LU directed that the Secretary of Transportation convene a task force to study and address current impediments and foreseeable challenges to the CDL program's effectiveness and suggest measures needed to realize the full safety potential of the CDL program. The authorization language noted the following specific issues:

1. State enforcement practices.
2. Operational procedures to detect and deter fraud.
3. Needed improvements for seamless information sharing between States.
4. Effective methods for accurately sharing electronic data between States.
5. Adequate proof of citizenship.
6. Updated technology.
7. Timely notification from judicial bodies concerning traffic and criminal convictions of CDL holders.

The Task Force was chartered as an advisory committee, and Federal Advisory Committee Act requirements guided the conduct of the meetings. In this report, the CDL Advisory Committee is referred to as the "Task Force."

Task Force members concluded that the existing CDL program is a highly effective highway safety program that needs incremental improvements rather than major modifications or restructuring. The Task Force discussions have been distilled to 15 recommendations for improvements to the CDL program. These recommendations are incremental in nature, and not all recommendations apply to the original scope of the CDL program. This report refers to current impediments and foreseeable challenges to the CDL program's effectiveness as "program vulnerabilities."

The findings in this report were derived from the consensus opinions of the Task Force members. However, committee membership or participation in the work of the Task Force does not imply acceptance or endorsement of any particular finding or recommendation by individual committee members or the organizations that they represent.

This report documents the Task Force's findings and recommendations for legislative, regulatory, and enforcement changes to improve the CDL program. The Task Force is chartered until November 20, 2008, and it stands ready to continue its service if Congress or FMCSA determines that additional work should be conducted to review and improve the CDL program.

2.1 Task Force Membership

The CDL Task Force members include State motor vehicle administrators, organizations representing government, members of the judiciary, safety advocates, and representatives from the trucking industry and labor organizations, and other significant stakeholders. A complete list of Task Force members appears in the Acknowledgements Section of this report.

2.2 Methodology

The Task Force focused discussion and deliberations on the seven primary issues enumerated in Section 4135 of SAFETEA-LU. Task Force members presented other CDL-related issues during the course of their meetings, and those topics were reviewed as well.

In its four meetings (which covered 11 workdays over a 5-month period), the Task Force received briefings on topics related to the seven primary focus issues, and then members participated in a structured discussion of the topics and issues. All meetings were open to the public, and opportunities were provided for the presentation of public comments.

The Task Force reviewed many reports and findings from various organizations (listed below) that were involved in the CDL program. Where applicable, this report refers to those reports and findings.

The Task Force focused on selected issues and made recommendations that would have the greatest effect on the CDL program. The Task Force recognized that any program changes would carry differential effects for the various parties involved, and therefore, it made recommendations that are intended to reflect the best balance of program improvement, achievability, and cost to stakeholders.

The following organizations interacted directly with the Task Force during deliberations:

- American Association of Motor Vehicle Administrators (AAMVA)
- Commercial Vehicle Safety Alliance (CVSA)
- Department of Homeland Security (DHS)
- Federal Motor Carrier Safety Administration (FMCSA)
- Indiana Supreme Court
- International Association of Chiefs of Police (IACP)
- Maryland State Police
- North American Driver Safety Foundation (NADSF)
- North Carolina Division of Motor Vehicles (NCDMV)
- National Transportation Safety Board (NTSB)
- Transportation Security Administration (TSA)
- DOT Office of Inspector General (OIG)
- A Panel of Commercial Vehicle Operators
- A Panel of CDL Driver Training School Operators

The Task Force heard presentations on the history of the CDL, CDL testing and commercial learner's permit standards, medical certification as part of CDL, entry-level driver training, oversight of foreign commercial drivers, a case study, "Something for Jamie," CDL compliance reviews, State enforcement practices, CDL grants, REAL ID Act, Indiana electronic citation project, North Carolina drug testing suspensions, CDL fraud, CDL skills testing, CDL compliance reviews—fraud component, CDLIS modernization, Fraud Emergency Warning System (FEWS), Commercial Skills Test Information Management System (CSTIMS), NTSB safety recommendations, and hazardous materials background checks.

For additional perspective, the Task Force meetings included both a driver and a commercial driver training forum. Commercial driver training was one of three topics the Task Force considered at several times during discussions. The Task Force also reviewed several times the medical certification tracking as part of the CDL and the hazardous materials endorsement background check.

The following documents were provided to the Task Force for review:

- FHWA: CDL Effectiveness Study (Cooperative Agreement DTFH61-95-X-0029, September 1998)
- FHWA: Technical Brief CDL Effectiveness Study
- FMCSA: Evaluating Commercial Driver's License Program Vulnerabilities – A Study of the States of Illinois & Florida (Final Report October 2000)
- FMCSA: Large Truck Crash Causation Study – Crash Data
- FMCSA: Origin and Development of the Commercial Driver Licensing Program
- FMCSA: Summary of Comments from the CDL Advisory Committee Meeting March 20, 2007 on Medical Certification as Part of the Commercial Driver's License (CDL), Rulemaking Identification Number 2126-AA10, and DOT docket number FMCSA-1997-2210 (with FMCSA notes in parentheses)
- DOT OIG Audit Report: Disqualifying Commercial Drivers (Report #MH-2000-106, June 30, 2000)
- DOT OIG Audit Report: Improving the Testing and Licensing of Commercial Drivers Federal Motor Carrier Safety Administration (Report #MH-2002-093, May 8, 2002)
- DOT OIG Information: Need to Establish a Legal Presence Requirement for Obtaining a Commercial Driver's License (CC2004-054, June 4, 2004)
- DOT OIG Report: Oversight of the Commercial Driver's License Program Federal Motor Carrier Safety Administration (Report #MH-2006-037, February 7, 2006)
- DOT OIG Information: DOT's FY2006 Top Management Challenges (Report #PT-2006-007, November 15, 2005)
- DOT OIG Statement: Background Checks for Holders of Commercial Driver's Licenses with Hazardous Materials Endorsement (CC-205-038, May 11, 2005)
- NTSB Accident Report: Collision between Ford Dump Truck and Four Passenger Cars Glen Rock, Pennsylvania April 11, 2003 (NTSB HAR-06/01)
- NTSB Highway Special Investigation Report: Medical Oversight of Non-commercial Drivers (NTSB/SIR-04/01)
- NTSB Safety Recommendation: Establishing Immunity Laws for Good Faith Reporting of Potentially Impaired Commercial Drivers (H-01-27, September 10, 2001)
- DHS/TSA Publication – HITRAC Public Sector Note: Potential for Terrorists to Obtain State Commercial Driver's Licenses Fraudulently (September 13, 2006)
- FMCSA: A Report to Congress on the Feasibility and Merits of Reporting Verified Positive Federal Controlled Substance Test Results to the States and Requiring FMCSA-Regulated Employers to Query the State Databases Before Hiring a Commercial Drivers License (CDL) Holder (April 12, 2004)

- National Highway Traffic Safety Administration (NHTSA): Traffic Safety Facts: Laws “Graduated Driver Licensing System” (DOT HS 810727W February 2007)
- Dee, Thomas S; Grabowski, David C; Morrissey, Michael A (2004) “Graduated Driver Licensing and Teen Traffic Fatalities”
- Lincoln Tribune.com (January 2007) State News: “State's Driver Licensing System reduces hospitalizations and medical costs for young drivers, UNC study finds”
- Insurance Institute for Highway Safety; Traffic Injury Research Foundation (August 2004) “Graduated Licensing: A Blueprint for North America”
- Hedlund, James; Compton, Richard (2003) "Graduated driver licensing research in 2003 and beyond"
- Donaldson, Gerald A. (May 22, 2003) “Inquiries Regarding Graduated Commercial Driver's Licensing - Qualifications, Testing, and Licensing Standards, Notice with Request for Comments, 68 FR 8798 *et seq.* February 25, 2003” (Docket # FMCSA-2002-12334)
- Wiggins, Sandi “Graduated Licensing Program - Interim Evaluation Report- Year 3”

2.3 History of the Commercial Driver’s License Program

That driving CMVs requires special skills and knowledge is widely recognized. Before implementation of the CDL program, no classified driver licensing system existed in 18 States or the District of Columbia. Any person licensed to drive an automobile could also legally drive a large truck or bus. Even in the 32 States with a classified driver licensing system in place that imposed special requirements for different types of vehicles, only 12 of those States required a person to take a skills test in a representative vehicle. As a result, many drivers were operating CMVs that they may not have been qualified to operate.

Possession and use of multiple drivers’ licenses by commercial vehicle drivers was an equally serious problem. Although 35 States voluntarily participated in the Driver’s License Compact, an agreement that requires turning in an existing or expired license before a new one is issued, many drivers could obtain driver’s licenses from more than one State. This allowed them to hide a bad driving record by spreading convictions among several driving records issued by different States. Even the worst repeat offenders were allowed to continue to drive. This situation existed because of the lack of an immediately accessible national information network to quickly check a license applicant’s driving status and history.

The CMVSA of 1986, signed on October 27, 1986, had a goal to improve highway safety by ensuring that drivers of large trucks and buses were qualified to operate those vehicles and to remove unsafe and unqualified drivers from the highways. The Act retained the right of States to issue a driver’s license to their residents, but established minimum national standards that States must meet when testing and licensing CMV drivers. It also mandated and funded the establishment of CDLIS to serve as a clearinghouse and depository of commercial driver licensing and conviction data. The Act assigned responsibility to the Secretary of Transportation for establishing the CDL program and monitoring the States’ compliance with the standards established under the Act.

The Act corrected the issues of problem drivers continuing to operate by using multiple licenses and drivers not taking a driver licensing skills test in a representative vehicle that existed before 1986. Effective July 1, 1987, it is illegal to hold more than one license, and States are required to adopt testing and licensing standards for truck and bus drivers. The standards oblige the States to check a person's ability to operate the type of vehicle being driven and to assure that persons with bad driving records are prohibited from operating a CMV.

While the Act did not require drivers to obtain a separate Federal license, it did require States to upgrade existing testing and licensing programs to conform to the Federal minimum standards. It also set the timeframe for implementation of the new CDL program and placed requirements on the CMV driver, the employing motor carrier, and the States.

All States have been participating in the CDL program since April 1992. The Task Force had the benefit of reviewing 15 years of experiences in operating the program, which helped inform its conclusions and recommendations.

3.0 Task Force Findings

This section describes Task Force findings on issues delineated in SAFETEA-LU, Section 4135, and other CDL-related problem areas that Task Force members presented during the review. The following sections provide background information for each issue followed by Task Force discussion points and the recommended CDL program improvements.

3.1 State Enforcement Practices

Traffic enforcement plays a critical role in the CDL program. When writing a citation, it is essential that officers cite the appropriate State code that corresponds to the relevant Federal CDL regulation, if they apply. Officers must also take care to accurately record driver identification, license class, and vehicle type, and indicate hazardous materials as the cargo, where appropriate.

State enforcement representatives described the current condition of State CDL traffic enforcement operations. The representatives described their roadside experiences and problems with properly identifying drivers. The experiences described indicated a need for access to better data and training to recognize fraudulent identification documents. Access to data and their accuracy and timeliness critically affect the ability of traffic enforcement officers to do their job. The National Law Enforcement Telecommunications Network (NLETS) and CDLIS do not always provide access to the necessary data. The NLETS data, in particular, was noted as not always being accurate and timely.

The experts expressed concern about the accuracy and completeness of data collected by traffic enforcement officers that is relevant to the CDL program. Enforcement officers do not always collect all of the necessary CDL-related data when writing citations. The Task Force expressed concern about the effect on highway safety if complete data are not collected when a citation is written because the judiciary and driver licensing agencies do not have the benefit of that information in adjudicating the case or taking other actions.

The Task Force identified the following CDL program vulnerabilities:

- Some citations are missing the appropriate State violation code corresponding to Federal regulations and do not always capture all relevant case information. This causes a breakdown in withdrawal actions; the judicial system and driver licensing agencies cannot take appropriate action without access to the necessary data.
- Traffic law enforcement officers do not always receive current driver status information for commercial drivers through NLETS.
- Organizations using NLETS or CDLIS cannot always obtain information from the SDLA.
- Some prosecutors and courts do not have easy access to current driver records.

- Prosecutors and judges have vital State enforcement roles to play in the CDL program. Prosecutors must understand CDL regulations and prosecute accordingly. Judges must also take into account the CDL regulations when adjudicating and, if appropriate, sentencing drivers.

The Task Force identified the following enforcement vulnerabilities regarding State judiciary participation in the CDL program:

- Prosecutors and judges sometimes fail to take into consideration CDL regulations when adjudicating criminal or traffic cases involving a CMV. For example, if an individual uses a CMV in the course of committing a crime, information that is applicable to the CDL regulations may not be reported by the courts to the SDLA.
- The Task Force identified examples of the issuance of hardship licenses to CDL holders convicted of traffic offenses, and of the masking of CDL convictions through plea-bargaining, diversions, and deferrals. Judicial and prosecutorial education concerning these prohibited actions is occurring nationwide, but these situations continue to exist.
- The Task Force heard reported instances of State agents (prosecutors and judges) intentionally disregarding the prohibitions against hardship CDLs and masking of traffic convictions.

Discussion

Data provided to and collected by traffic enforcement officers form the foundation for effective control actions for licensed commercial drivers. Traffic enforcement officers are better equipped to handle responsibilities involving CDL violations if they have access to the most current driver data and their training in their State codes includes Federal CDL regulations. Likewise, members of the judiciary need to better understand their role in the CDL program and the effect their decisions and actions have on effective State enforcement of CDL regulations.

Access to current CDL data is limited by operating practices for each State's existing computer system. The SDLA computers are not accessible at all hours through the CDLIS telecommunications network. Many State data centers regularly go offline as part of scheduled database batch processing procedures and computer system maintenance.

In some States, NLETS is connected to a computer intended to provide 24 hours per day, 7 days a week access, but in some cases, that computer is not the same one that serves SDLA functions. Instead, a copy of SDLA data provided to law enforcement authorities is installed on the computer attached to NLETS. This means that the data accessed by an NLETS inquiry is not live SDLA data, and it is only as current as the most recent update of that copy.

Creation of an interface between the NLETS network central switch and CDLIS central would enhance the flow of commercial vehicle driver information to traffic law enforcement authorities. Implementation of this CDLIS central interface to allow NLETS users access would be limited by SDLA computer hours of operation, and the increased CDLIS communications

cost would require funding. Both data access problems need correcting; NLETS users need access to current CDL driver record data, and CDLIS data needs to be available continuously to support enforcement activities.

Improvements Needed

- The FMCSA should strengthen its CDL training and education program to ensure that traffic enforcement officers fully understand the necessity of collecting CDL program-related data when citations are written. The data should include offenses that occur in a CMV as well as offenses that involve a CDL holder, whether or not the driver is operating a CMV. (Recommendation 1)
- The FMCSA should strengthen its CDL training and education program to ensure that the prosecutors and judges understand CDL program regulations and the role they play in improving highway safety. (Recommendations 1 and 8)
- The FMCSA should collect data that identify the frequency of violations of the prohibitions against hardship licenses and masking of convictions. Identifying and quantifying the violations would assist FMCSA address the issue. (Recommendation 8)
- The FMCSA should review and examine the policy for imposing sanctions on a State when agents of the State commit CDL violations either knowingly, intentionally, purposefully, or willfully. These sanctions might include the imposition of monetary penalties on States for noncompliance with CDL regulations. (Recommendation 13)
- The FMCSA should work with AAMVA, NLETS, the FMCSA provider of CDLIS access and NLETS data for Mexican Licencia Federal drivers, and the States to develop procedures for providing current CDLIS driver record data continuously to both CDLIS and NLETS authorized users. (Recommendation 2)
- The FMCSA should work with the States to encourage improved deployment of driver record access capabilities for prosecutors and courts. (Recommendation 2)

3.2 Operational Procedures to Detect and Deter Fraud

The CDL program has numerous interdependencies between traffic enforcement authorities, judiciary members, SDLAs, motor carriers, CMV drivers, medical examiners, and FMCSA. They each must perform their duties according to the rules and guidelines of the program for it to be effective. If any stakeholder introduces fraud, the CDL program is weakened.

The DOT OIG presented the findings of its investigation into CDL fraud to the Task Force. The OIG concluded that fraud is a significant problem in the CDL program. Following is a list of some of the drivers' motives for fraud:

- Inability to pass the written examination because of language barriers.
- Lack of sufficient training to pass the written or skills tests, or both.
- Desire to conceal the fact that their CDL has been withdrawn.
- Unwillingness to wait the time necessary from completion of the knowledge and skills tests to the subsequent issuance of a license.

The OIG provided the Task Force with numerous other examples of license issuance fraud focusing on internal SDLA fraud and third-party testing fraud. The FMCSA's staff told of experiences detecting CDL fraud. In the course of their investigations over 36 months, FMCSA identified 15,032 individuals (.12 percent of all CDL holders) who are suspected of obtaining their CDL fraudulently. Retrieving those licenses and retesting the drivers has been a difficult and time-consuming process. Third-party testers were the primary source of the frauds uncovered by FMCSA.

The NTSB also presented information to the Task Force regarding medical oversight of commercial interstate drivers, reporting problems with medical examiners and the tracking of medical examinations:

- Medical examiner qualifications
 - Examiners are commonly untrained and inexperienced with FMCSA's medical qualifications regulations.
 - There are no Federal medical examiner training/certification programs.
 - Personal physicians are used to obtain certification, which sometimes creates a conflict of interest.
 - Non-prescribing healthcare professionals can certify drivers.
 - Some existing FMCSA medical regulations and guidance do not reflect updated medical science and practices.
 - Trial reviews of driver medical certificates have found numerous errors, falsifications, and cases of inappropriate issuance.
- Medical Certification Tracking
 - There are many examples of "doctor shopping" by drivers and there is no mechanism to track and detect multiple visits to different examiners.
 - There is no way to review previous medical examination results.
 - States and employers are unaware of previous disqualifications.
 - There is no mechanism to prevent multiple visits to different examiners for purposes of medical certification.
 - There is no mechanism to prevent falsification of medical certificates by a driver.
 - Drivers sometimes withhold medical condition information from examiners in order to become medically certified.

The Task Force considered medical examiner qualification issues to be critical but outside its scope in the charter. However, the Task Force considered medical certification tracking issues in the scope of CDLIS and the CDL program and therefore provided recommendations. (Recommendation #5) The NTSB also indicated a need for a formal system for tracking positive drug tests.

The AAMVA presented information about two antifraud systems it has developed under the guidance of FMCSA. The CSTIMS was developed specifically in response to the OIG and FMCSA findings regarding third-party testing fraud. It puts into place appropriate checks, balances, and monitoring to inhibit and detect this type of fraud.

The AAMVA, under the guidance of FMCSA, also developed FEWS to inform enforcement and licensing agencies of stolen equipment and materials used to make driver's licenses and identification cards so that those agencies can take proper precautions to look for licenses that may have been created with that equipment or those materials.

The NADSF, in a presentation of information obtained through State compliance audits, said many States lack sufficient internal controls to detect and deter fraud.

Members of the Task Force representing the commercial motor carrier industry identified problems encountered with obtaining timely and accurate driver history information. Motor carriers indicated that driver self-reporting of traffic infractions is not an effective mechanism for obtaining information that pertains to their drivers. Checking a driver's record once annually is also not effective for managing the safety practices of their drivers.

Members of the Task Force and commercial vehicle operators serving on the Driver Panel discussed the issue of English proficiency at length. Although the issue will be addressed in the proposed Learner's Permit Rule, English proficiency of foreign nationals operating trucks in the United States was a concern. A significant number of foreign drivers crossing the southern border, particularly Mexican and Central American drivers are functionally illiterate in Spanish for reading comprehension. There is concern that these drivers may not be able to comprehend American traffic control devices or understand American laws and regulations, even though they are required to certify that they are English proficient. Task Force members proposed that English proficiency be determined by demonstration rather than self-certification.

Based on these presentations, the Task Force identified the following CDL program vulnerabilities regarding fraud:

- Licensing
 - Drivers can provide counterfeit identification credentials when applying for a job, applying for a CDL, when stopped for a traffic violation, or when stopped at a weight or inspection station, including providing false information related to their State of residence.
 - Drivers can obtain a CDL without adequate English language proficiency.
 - Driver training schools can falsify information about training provided to an individual.
 - State driver licensing examiners can be bribed into falsely approving a driver's knowledge or skills test.
 - State driver licensing clerks can be bribed into falsely approving the issuance of a CDL, essentially ignoring results returned to the State from information systems such as CDLIS or the National Driver Registry (NDR).
 - State forms used to validate the CDL skills testing results can lack security features and be subject to fraudulent activities.

- Medical Certification Tracking
 - Drivers have been known to generate and submit fraudulent medical examiner’s certificates.
 - There is no mechanism for verification that information on the medical examination’s long form logically supports the medical certificate needed to qualify the driver to operate a CMV.
 - No provision exists for identifying drivers who become physically unqualified before the expiration of their certification.
 - No provision exists for identifying fraudulent medical examiners.
 - Medical examiner shopping cannot be identified.
 - Driver fraud in withholding medical history information from subsequent medical examiners as part of their examiner shopping cannot be identified.
 - There is no process for managing data quality in the medical certification process.
- Employers
 - Drivers are required to “self-report” to their employer driving infractions that would negatively affect their eligibility in the CDL program or their employment as a commercial driver.
 - Employers’ reliance on driver self-reporting is ineffective and impedes the ability of employers to direct prompt, corrective action toward their drivers.
 - Drivers who test positive for drugs or alcohol or refuse to be tested, and who are not hired or subsequently lose their jobs, can be hired as drivers by other employers who have no access to the results of the previous positive tests or to information that they refused to be tested.

Discussion

The FMCSA has implemented a number of actions to counter CDL fraud. Following is a series of specific actions FMCSA has taken to counter CDL licensing fraud:

- Developed a best practices manual in conjunction with AAMVA and the States.
- Funded programs to:
 - verify social security numbers;
 - automate CDL knowledge tests with randomized questions and answers; and
 - conduct covert monitoring of CDL skills tests.
- Implemented a CDL fraud component in the FMCSA’s CDL Compliance Review Program that incorporates questions to determine the nature and effectiveness of CDL antifraud procedures and systems.
- Contracted with Oak Ridge National Laboratory to conduct an evaluation of the CDL Compliance Review Process.
- Developed training in fraudulent document recognition for law enforcement, CDL coordinators and driver licensing staff.
- Held an international symposium centered on fraud-related issues in driver licensing.
- Developed, with AAMVA and the States, a system (FEWS) to alert States to known fraudulent activity.

- Entered into agreement with AAMVA to develop software (CSTIMS) for detecting, preventing, and deterring fraud by third parties involved in skills testing.

As a result of these FMCSA initiatives, many of the CDL licensing fraud loopholes are beginning to be closed; however, areas still exist where fraud issues need to be addressed in the CDL program.

A number of State licensing systems do not automatically stop issuance of a CDL when a response from CDLIS or NDR is not available or when the CDLIS and NDR response indicates a problem exists. Instead, those States allow driver licensing personnel to override the problem indicator, thus allowing the license to be issued despite data or circumstances that would dictate otherwise. A number of States also have no controls in place to identify the cases where the override capability was used.

A number of States permit interpreters to assist drivers with the CDL knowledge tests. States lack sufficient employees with foreign language skills to monitor this process to ensure the interpreters are only translating the questions and answers and not providing the correct answers to the drivers or otherwise assisting the driver with the test.

Medical Certification Tracking

The CDL drivers are required by 49 CFR 383.71(a)(1) to self-certify if they are subject to Federal medical certification standards or State physical qualification requirements, and if so, whether they meet the applicable requirements. For those interstate drivers who must meet the Federal medical certification requirements, the proposed “Medical Certification Requirements as Part of the CDL” Notice of Proposed Rulemaking (NPRM) would require drivers to provide a medical certificate (or copy, at the SDLA discretion) to the SDLA to document their physical qualification to operate a CMV.

The Task Force repeatedly returned to this topic and spent considerable time discussing the medical certification requirements as part of the CDL NPRM. Requiring drivers to provide the medical certificate to the SDLA does not address any of the known medical-fraud tracking issues listed earlier. The Task Force expressed concern that the proposed approach for implementing Section 215 of Motor Carrier Safety Improvement Act (MCSIA) of 1999 is not fully consistent with the authority provided to States under SAFETEA-LU Section 4123(a) to use CDLIS modernization grant funds to integrate the tracking of medical certification information with the CDL program. The NPRM does not sufficiently integrate the seamless flow of information to effectively support the medical certification process. As a result, the Task Force does not believe the proposed rule fully addresses any of the medical certification tracking fraud issues noted in this report.

The Task Force concluded that the rule currently proposed does not provide sufficient benefit to the CDL program to justify the costs imposed on the States. The approach of the NPRM would impose the maximum costs on the States with a minimum benefit to the States. As proposed, it addresses only the minimum effort needed to comply with the statutory requirements of Section 215 of MCSIA. The Task Force noted that Section 215 is codified only as a note to 49 U.S.C. 31305. The NPRM does not address the requirements in the original authorizing

legislation found at 49 U.S.C. 31305(a)(7), to which Section 215 note refers. The proposed system would still perpetuate a CDL system vulnerable to fraud.

The Task Force also concluded that, as part of its recommended new CDLIS central module, a list of authorized medical examiners should be developed using the existing definition for “Medical Examiner” found at 49 CFR 390.5. The proposed NPRM under development should be modified to allow only those examiners on the list to electronically submit medical examination reports for CDL drivers. This list could be implemented and operated by AAMVA as a compatible precursor to the medical program’s planned NRCME. The interim list would require that all examiners who wish to be approved for providing medical examinations to CDL drivers provide documentation that they are approved by their State to perform physical examinations and agree to abide by the operating procedures of the list. The central Web application with associated database then would electronically ensure that only examiners on the list submit medical examination reports. This procedure would eliminate drivers from fraudulently creating their own medical certificates or medical examination reports (long form), and it would require electronic submission of all medical examination reports, thus identifying possible medical examiner shopping. It would also identify a driver who fails a physical examination before his or her existing certification expires. The procedure also would create a process for data quality management.

Another alternative was considered by the Task Force, but not recommended. That alternative would not be part of CDLIS, and thus was considered in the responsibility area of FMCSA’s medical program, which is outside the charter of the Task Force. It also would be less effective than the CDLIS-based recommendation of the Task Force and a more costly paper-based application. Additionally, something akin to this concept is already required by SAFETEA-LU. The alternative considered was:

- States should be required to conduct an annual random sampling of medical certifications by comparing the long forms against the medical examiner’s certificates.
- The FMCSA audit of the States’ CDL program should include verifying that the State has conducted the random verification of medical certificates against the long forms.

The Task Force concluded the CDLIS-based medical certification tracking recommendation is far more rigorous because it would handle all medical examination reports and would clearly meet the requirements of SAFETEA-LU for monitoring and follow-up audits of medical examiners. The work performed by the State of Indiana for such a system under a grant from FMCSA could facilitate implementation of this national capability.

Employers

Drug and Alcohol Test Reporting

In response to the MCSIA Section 226 requirement, FMCSA previously prepared and submitted a report to Congress on this subject, “A Report to Congress on the Feasibility and Merits of Reporting Verified Positive Federal Controlled Substance Test Results to the States and Requiring FMCSA-Regulated Employers to Query the State Databases Before Hiring a Commercial Drivers License (CDL) Holder,” April 2004. That report recommended the creation of a new, centralized, and federally operated database and concluded that such a capability is

possible. The American Trucking Associations (ATA) and others have been advocating for such an information system capability for many years.

The Task Force supports the concept of positive drug and alcohol tests being reported and recorded in a database that is accessible by employers and potential employers. The North Carolina SDLA presented its drug and alcohol positive test reporting program to the Task Force. Under this program, positive test results are recorded in the driver record and the CDL is suspended until the driver completes a required rehabilitation program. Potential employers are made aware of the positive drug test as the suspension is on the driver's record the potential employer receives. The suspension is also available to law enforcement through CDLIS.

Some Task Force members raised concerns over medical privacy and obtaining authorized access to drug and alcohol testing records. Others expressed concerns over the ability of the employer to access drug and alcohol records for tracking an employee's progress toward "return-to-duty" status if these test results were retained within the State SDLAs. The Task Force agreed that the North Carolina model is just one of the many noteworthy proposals that should be considered by FMCSA to achieve the goal of centrally tracking driver drug and alcohol testing results.

Employer Notification Systems

The FMCSA requires employers to check the CMV driver's record as a condition of employment and at least once per year thereafter. Although CMV drivers are required to "self-report" any violation and accident to their employer, this does not always happen. In many cases, the employer will not discover a driver's CMV infractions or disqualifications until they perform the mandatory, annual Department of Motor Vehicle (DMV) record pull. This is often too late to take prompt, corrective action with the driver.

The Task Force recommends implementation of an enhanced approach to disseminating records of bad driving behavior to employers. Some States have proactive programs, generally called pull or push programs, in which employers can subscribe to a service that automatically notifies the subscribing motor carrier when a driver registered by that motor carrier receives a posting of a conviction or a withdrawal. Alternatively, commercial, third parties are offering this service to employers. The Task Force believes that increased use of commercial systems and deployment of State-administered systems would better serve the highway safety goals of the CDL program.

Improvements

Licensing

- People who want to commit fraud can be very creative and resourceful; therefore, FMCSA should conduct regular reviews of potential fraud vulnerabilities to ensure that implemented antifraud measures remain effective. (Recommendation 14)
- For the knowledge test, States should not be allowed to issue CDLs providing interpretation or translation of test questions. Drivers should, at the time of license application, be able to read and speak English sufficiently and meet the additional requirements of FMCSR Section 391.11(b)(2). Further, motor carriers that hire and

employ CMV operators who are unqualified to drive under 49 CFR Section 391.11(b)(2) should be monitored by FMCSA, and appropriate action should be taken to ensure compliance. (Recommendation 12)

- The FMCSA should formalize State best practices and document effective automated tools for detecting and deterring internal SDLA fraud. (Recommendation 2)
- States should implement procedures and create automated stops in their issuance software to prevent the completion of a CDL issuance when CDLIS or NDR is not operational or when data is returned from CDLIS or NDR that normally would result in the denial of the license. For management review and oversight, States should centralize the override capability, providing reports describing cases where any override was used. (Recommendation 2)
- When a transfer applicant presents a CDL and a subsequent search of CDLIS does not return a master pointer record, or CDLIS points to a different State than the State that issued the CDL presented by the applicant, the State must end the transaction and conduct appropriate research to ensure that the transfer applicant is not obtaining a false identity. All CDL holders must have a correct master pointer record on the CDLIS central site. (Recommendation 2)
- A mandatory, federally standardized nationwide drug and alcohol positive test reporting program should be established with test results added to each driver's license record. The results of tests should remain in the driver's record according to standardized retention criteria. (Recommendation 5)
- The FEWS and CSTIMS should be implemented nationwide. The FMCSA should promote these fraud-fighting systems and ensure that there is adequate funding for the ongoing operation and enhancement of them. (Recommendation 2)

Medical Certification Tracking

- Drivers should be removed from the process of transferring information between medical examiners and SDLAs or employers. (Recommendation 6)
- A centralized web application should be developed as part of CDLIS modernization that enables medical examiners to report the results of examinations to a central web application. (Recommendation 6)
- In advance of implementation of the SAFETEA-LU requirement for the NRCME, a list should be established by FMCSA and populated with all examiners who are interested and document they are authorized by their State to perform physical examinations. The examiners would apply for acceptance to perform these examinations and agree to abide by the operating procedures required of medical examiners on the list. (Recommendation 7)
 - The CDLIS application would forward only certification status data as a CDLIS transaction to the licensing SDLA for posting to the CDLIS driver record.
 - Examiners would report all examinations, thus identifying drivers who failed examinations before expiration of their current certification, or drivers likely engaging in examiner shopping.
 - The CDLIS application would allow for prompt flow of information to correct data quality problems.

- The CDLIS application could provide results of previous examinations to a current medical examiner to prevent drivers from withholding medical history data.
- CDLIS modernization should be used to implement these capabilities.

Some industry representatives on the Task Force expressed the opinion that integration of tracking medical certification information with the CDL program should be delayed until the NRCME is in place.

Employers

- By regulation, employers are required to check each driver’s record prior to employment and at least once annually thereafter. Members of the Task Force recommended implementation of a broader approach to disseminating records of driving infractions or convictions to employers. Some States have already implemented what are generally called “pull programs,” allowing employers to subscribe to a service that automatically notifies them when a driver registered by that motor carrier receives a posting of a conviction or withdrawal. Alternatively, commercial third-party services are being offered to employers. The Task Force agrees that increased participation and deployment of State-administered or commercial systems would enhance the highway safety interests of the CDL program. (Recommendation 11)
- The CDLIS should be augmented to provide for positive controlled drug and alcohol test results to be electronically received as a CDLIS transaction, recorded in the driver’s record, and accessible to authorized users. The FMCSA should issue changes in its regulations to standardize this requirement nationally as part of CDLIS. (Recommendation 5)

3.3 Needed Improvements for Seamless Information Sharing between States, and Effective Methods for Accurately Sharing Electronic Data between States

The Task Force discussed the information-sharing requirements placed on all CDL program stakeholders. These requirements included the need for capabilities to track the flow of information regarding medical certification discussed in section 3.2. The Task Force focused on the events beginning when a traffic enforcement officer cites a driver and ending when the driver is convicted and conviction information is placed in the driver’s record.

This report addresses most of the Task Force recommendations concerning information sharing between State agencies and among States in other sections of this report. This section focuses on information-sharing vulnerabilities that were not raised in other portions of the report.

Safety enforcement stakeholders expressed concern about the accuracy and completeness of CDL-relevant data collected through traffic enforcement. Sometimes enforcement officers do not collect all of the necessary CDL-related data when writing citations. Enforcement agencies are concerned about the effect this has on highway safety. If complete data are not collected when a citation is written, then the judiciary and SDLAs will not have benefit of that data in adjudicating the case or taking driver control action, if needed.

The NADSF presented information obtained from State CDL program compliance audits. According to NADSF, CDLIS provides a transaction for the State-to-State exchange of conviction information from the convicting State to the licensing State. All but two jurisdictions have implemented this transaction; these two States send all convictions to licensing States on paper. The CDLIS transaction can be transmitted electronically only if a master pointer record exists on CDLIS for the driver. All States send convictions dealing with non-CDL holders to the licensing States on paper, even if the offenses require FMCSR disqualification action.

Convictions sent via paper arrive slowly and require considerable resources to process. The process used to manually post the conviction to a driver's record is prone to error. Errors in the paper citation sent to the licensing State are harder to correct because the convicting court is more difficult to contact. Posting of the out-of-State conviction sometimes involves translating the convicting State law to fit the receiving State's laws. This process can change the content in a way that negatively affects the CDL program.

The Task Force identified the following vulnerabilities regarding the effective exchange of data among State agencies and from State to State:

- Traffic enforcement officers collect only a portion of citation data electronically at roadside, and the software recording that data does not always ensure complete CDL information.
- For citations that are not recorded electronically during traffic enforcement stops, human error introduced by interpreting handwriting or oversights and omissions affect accuracy at the time data is manually entered into the computer system.
- After conviction data is recorded by the SDLA in the convicting States, it needs to be transmitted to the licensing State. Limited use of the existing CDLIS capability to transmit conviction information electronically from the convicting State to the licensing State continues.

Discussion

Law enforcement agencies are making increased use of laptop computers for officers to document citations during traffic stops. The software used by each agency in that capacity could be modified to prompt officers to include the following data elements:

- Did the offense occur in a CMV requiring a CDL?
- Does the driver possess a CDL?
- Was the driver hauling hazardous materials?
- Was the driver operating a vehicle requiring a passenger endorsement?

If this type of information was captured electronically as part of all traffic citations, the data would be more complete and accurate, and the information could be transmitted to the judicial system easier than sending paper citations.

Historically, limited use of the CDLIS for reporting driver conviction transactions resulted because only CDL convictions could be transmitted through CDLIS. The work required to

separate CDL driver convictions from other driver convictions apparently created a significant disincentive for States to embrace use of this capability.

Improvements

- The FMCSA should continue to promote the deployment and use of electronic citation systems that support CDL program requirements. (Recommendation 2)
- Electronic citation systems should overtly prompt traffic enforcement officers and courts to include data elements related to the CDL program and the imposition of mandated penalties. (Recommendation 2)
- The FMCSA should require the States to send conviction data electronically through CDLIS. (Recommendation 14)

3.4 Adequate Proof of Citizenship

The DOT OIG recommended implementation of a Federal standard that requires CDL applicants to demonstrate that they are citizens of the United States or that they are present legally. The recommendation included requirements for testing and English language proficiency.

The Maryland Motor Truck Association and the National Tank Truck Carriers submitted comments regarding the importance of English language proficiency for CMV drivers.

Discussion

The Task Force discussed the issue of citizenship for the CDL program and determined that no data indicate that citizens from other countries who have legally obtained a CDL in the United States are any less safe than citizens of the United States who obtained a CDL legally. Each driver must have the requisite knowledge and skills, as defined by regulation, and show adequate English proficiency, regardless of citizenship status.

The FMCSA is addressing legal presence, as required in SAFETEA-LU, and in the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), through the CDL Testing and Learner's Permit Standards rulemaking. Legal presence also falls under the scope of the REAL ID Act addressed later.

3.5 Updated Technology

The CDL program was first implemented on January 1, 1989, using 1980s information technology. Information technology changes since that time have been extensive regarding computer availability, capability, networking, and server functionality. The Task Force reviewed existing technologies used by each stakeholder in the CDL program to determine whether updated technology would improve the efficacy of the program. This section focuses on technology issues the Task Force identified, but that are not mentioned in other sections of this report.

The AAMVA presented information to the Task Force regarding the CDLIS modernization project. The AAMVA stated that the current CDLIS system, created with 1980s technology, restricts AAMVA's ability to effectively operate and maintain the system. A modernized CDLIS will provide further automation, improved information exchange, added self-auditing features, integrated medical certification requirements, and an enhanced ability to uniquely identify drivers.

The NADSF presented information obtained during State CDL program compliance audits. According to NADSF, many States lack sufficient internal controls to detect and deter fraud.

The Task Force identified the following technology vulnerabilities:

- The CDLIS lacks self-auditing features and does not provide FMCSA with the management tools it needs to identify problems and their associated solutions.
- Because of the 1980s-based technology used by CDLIS, it is difficult to support new requirements, such as data encryption or future medical certification requirements.
- State driver's license issuance systems do not have adequate features to detect and deter internal SDLA fraud.

Discussion

Through the SAFETEA-LU authorization, FMCSA has undertaken a program to modernize the CDLIS central Web site and network, and the associated State CDLIS applications. The Task Force encourages the development of additional capabilities in both the CDLIS central Web site and State implementations at this time to make the program more effective. Section 3.2 provides further discussion of the Task Force recommendation for development of CDLIS central site capabilities to communicate with medical examiners and an interim list of medical examiners.

Many States have implemented software features that are intended to detect and deter internal SDLA fraud; however, FMCSA does not have a focused program to give formal guidance to the States on the use of such technology to detect and deter fraud in the driver licensing program.

Improvements

- The CDLIS modernization should continue, and it should encompass relevant recommendations from this report, including the implementation of self-auditing tools and reporting tools, and accommodating medical certification tracking capabilities as described in section 3.2. (Recommendations 2, 6, and 7)
- The FMCSA should develop formalized efforts to promote best practices for the implementation of technologies by the States. This should include documentation for use by the States for effective automated tools to detect and deter internal SDLA fraud. (Recommendation 2)

3.6 Timely Notification from Judicial Bodies Concerning Traffic and Criminal Convictions of Commercial Driver's License Holders

The timely flow of conviction data from the courts to SDLAs, and subsequently to prosecutors, courts, law enforcement, and employers, is crucial for the success of the CDL program. Driver licensing agencies cannot initiate driver control actions unless they are aware of convictions. Traffic enforcement officers, prosecutors, judges, and employers cannot take appropriate action against a driver if conviction information has not been included in the driver's record.

The MCSIA mandates a 10-day maximum time period for States, from the time of conviction to the posting of the conviction in the driver's record in the licensing State. Lack of compliance could lead to a significant loss of transportation funding; and therefore, the 10-day conviction reporting requirement has raised great concerns for SDLAs, DOTs, and law enforcement agencies that have no direct control over compliance by other State agencies, particularly the courts.

Members of the Task Force who represent the enforcement community, the judiciary, and SDLAs stated that the number and diversity of courts in a State that could adjudicate CDL-related traffic cases makes compliance with this requirement very difficult. Educating the judiciary about their role in the CDL program and motivating them to comply with the MCSIA requirement requires a focused effort and significant resources.

The Task Force was encouraged by the joint FMCSA–Indiana Supreme Court project to develop and deploy an integrated statewide case management information system. A 2004 audit found that before implementation of the case management system, in-state convictions were posting to a driver's record in 52 days on average. After implementing the system, the average time to post convictions for in-state drivers was 11 days.

The Task Force identified the following vulnerability regarding the timely notification of conviction information within the CDL program:

- State judiciary systems lack the resources and motivation to transmit traffic and criminal conviction information for CMV operators to SDLAs in accordance with Federal CDL regulations.

Discussion

The FMCSA has been actively pursuing efforts to educate prosecutors and judges on their essential role in the CDL program, and the efforts are continuing. The FMCSA participates in programs to develop and deploy information systems for use by State judiciary entities; however, political independence, diversity, and the number of State courts, plus resource constraints at the State and Federal levels, have hindered success in this area.

The Task Force found that States are having difficulty meeting the MCSIA 10-day reporting requirement. The difficulties will continue until States receive additional resources to meet the challenges related to compliance with this rule.

Improvements

- The FMCSA should undertake a focused, multiyear program of education and training, along with grant funding to States for the deployment of judicial case management information systems to address the reporting requirement. (Recommendations 1, 2, and 8)
- The FMCSA should consider imposing monetary sanctions on the States for noncompliance with the reporting requirement if States fail to show progress. (Recommendation 13)

3.7 Background Checks for Hazardous Materials Endorsements

The USA PATRIOT ACT requires that a driver cannot be licensed to transport hazardous material until the Federal government notifies the licensing State that the driver does not pose a security risk warranting denial of the license. The TSA's regulations require that drivers seeking to obtain or renew a CDL hazardous materials endorsement submit to a 10-fingerprint criminal background check to comply with the law.

The TSA presented information to the Task Force and facilitated a discussion about the HAZMAT background check program. The TSA stated that the list of hazardous materials that require a background check for threat assessment is being modified.

The Task Force identified the following vulnerabilities:

- Although the background check was designed to be portable, the program has not functioned as planned. This has created difficulties for the SDLAs that administer the CDL program. A fingerprint based background check is required each time a driver renews the hazardous materials endorsement in his home State or in a new State.
- Some States have placed additional criminal record check requirements on drivers, further limiting the portability of the endorsement since these States do not accept a TSA background check completed in other States.
- This combines to reduce the pool of drivers willing to renew or transfer their hazardous materials endorsement and could hamper the ability of industry to move hazardous materials cargo.

Discussion

At the direction of Congress, TSA and the Pipeline and Hazardous Materials Safety Administration are narrowing the list of hazardous materials that require a background record check threat assessment for transportation workers. The Task Force concluded that the modification to the list will cause significant program changes, and the TWIC requires that an applicant undergo essentially the same background checks and review process.

Improvements

- The fingerprint-based background record check required by TSA for drivers to obtain a CDL hazardous materials endorsement has been difficult for the SDLAs to implement. The existing practice should be replaced with a process that requires drivers to obtain a

TWIC to haul hazardous materials that fall under TSA purview as security-sensitive materials. (Recommendation 4)

3.8 REAL ID and the Commercial Driver's License Program

The Federal REAL ID Act was passed by Congress as a means of implementing the recommendations of the 9/11 Commission for more secure identification in the United States. The requirements of the Federal REAL ID Act and those of the CDL program potentially overlap in a number of areas:

- Driver identity verification.
- State of residence and legal presence verification.
- Limitations of one driver's license to a driver.

The DHS presented information regarding the status and future of the REAL ID program. In its presentation regarding CDLIS modernization, AAMVA expressed concern that REAL ID will compete with CDLIS modernization for State resources. State Task Force members expressed the opinion that with the implementation of the USA PATRIOT Act, DOT and DHS have given the States conflicting requirements. For example, the TSA list of categories of drivers eligible for the hazardous materials background check includes categories of drivers that are not eligible for a CDL. States are concerned that REAL ID will create more confusion and conflict.

Discussion

The States and FMCSA have undertaken a CDLIS modernization project that will update the functionality and technology of CDLIS. At the same time, DHS has started to formulate regulations for the implementation of REAL ID.

The REAL ID program could negatively affect the CDL program in several ways:

- Divert States' efforts and resources away from operating and improving the CDL program.
- Impose requirements on States that conflict with or cause confusion related to CDL program elements.
- Increase costs to States.

Improvements

- The FMCSA and DHS should work together to ensure that REAL ID and CDLIS modernization are developed in a coordinated fashion that maximizes each program's success while minimizing the resource needs and compliance efforts for the States. (Recommendation 9)

3.9 State Driver Licensing Agency Compliance

The CDL program imposes many requirements on the States. State traffic enforcement, prosecutors, judges, and driver licensing agencies all have responsibilities for the program, and each one is dependant on the performance of the others. If any entity in a State fails to comply with the Federal CDL regulations, the CDL program suffers; therefore, States can be deemed out

of compliance with Federal CDL regulations if any one State entity fails to comply. Compliance issues that are related to traffic enforcement and the judiciary are noted elsewhere in this report. Because fraud issues related to the SDLAs were discussed in another section of this report, this section focuses on SDLA compliance issues unrelated to fraud.

The NADSF presented information to the Task Force based on its findings from State CDL program compliance reviews. The NADSF reported that States are not taking disqualification action as often as they should because they cannot access complete driving histories. Often, States do not consider driver history data transferred from other States to determine driver licensing or qualification.

A driver qualification specialist from the FMCSA Southern Service Center spoke to the Task Force about CDL State compliance activities. His work has improved the quality of CDL skills test administration, the quality of overt and covert skills test monitoring, and the level of training State and FMCSA division personnel involved in the CDL program have received. He has also assisted States in coming into compliance with FMCSRs. No other FMCSA Service Center has a staff member dedicated to the CDL program.

The Task Force identified the following vulnerabilities concerning SDLA noncompliance:

- Over time and through attrition, SDLAs have lost institutional knowledge of the CDL program. This loss of institutional knowledge has led to an increase in State noncompliance.
- States are not making full use of the driver history transferred from other States for disqualification actions.
- There are no minimum training and qualification standards for State skills test examiners. This creates inconsistencies in the application of the skills tests.
- There is a shortage of FMCSA field personnel who are knowledgeable of the CDL program and can provide support to FMCSA and other CDL program stakeholders.

Improvements

- Administrative and other staff involved in supporting SDLA information technology infrastructure should receive periodic training and education on Federal CDL requirements. (Recommendation 1)
- Minimum training and qualification standards should be developed for skills test examiners. (Recommendation 12)
- FMCSA should increase Service Center staffing to include a CDL Program specialist at each Service Center. (Recommendation 14)

3.10 Driver Training

Currently, driver training is not a part of the CDL program. Federal regulations do not require that CDL applicants successfully complete a structured CDL training program before licensure. States have a responsibility to test drivers to determine their knowledge and skill levels, and States base the issuance of the CDL on a driver's ability to pass both tests. The knowledge and skills tests are minimum standards defined by FMCSA regulation.

The Task Force heard from a panel of professional commercial drivers and a second panel of driver training school operators.

The following is a list of suggestions from the driver panel:

- Driver training should be mandatory for all drivers.
- Drivers should have a specified minimum number of hours of behind-the-wheel training (not just time in the cab) before CDL issuance.
- A significant amount of the training should focus on backing, up- and downshifting, safety practices, and the use and monitoring of airbrake systems.
- A national standard for training programs of all commercial drivers is needed.

The following is a list of suggestions from the driving school operators:

- A separation between testing and training functions in the commercial driving school sector is needed.
- Qualifications and safety training for CDL road test examiners should be mandatory.

The Task Force identified the following vulnerabilities concerning driver training:

- Because no driver training standards exist, many drivers are trained primarily to pass the State knowledge and skills tests. The Task Force believes a gap exists between the testing required by the CDL program and the knowledge and skills needed to safely operate a CMV.
- While the Task Force did not agree on the specific number of hours as a minimum the driver training standard should include for behind-the-wheel experience, Task Force members agreed a minimum is necessary and observation or in-the-cab time should not be counted toward meeting this minimum requirement.

Discussion

The Task Force discussed the potential benefits of instituting a graduated commercial driver's license (GCDL). Previously employers resisted the idea because they are concerned that such a program will provide inadequate compensation for drivers and insufficient profit for employers to merit such a program. The Task Force felt that GCDL could be established as part of the entry level driver training rule, which is currently being written. The Task Force could not resolve certain questions:

- How many graduated driving levels are needed?
- What restrictions should exist and how long do restrictions apply?
- What are the minimum age requirements?
- What performance measures would a driver need to meet to advance to the next stages?

Improvements

- The Task Force recommends that FMCSA establish performance-based, minimum entry-level CMV driver training standards. (Recommendation 12)
- FMCSA should explore the GCDL concept as a part of this process. (Recommendation 12)

3.11 Department of Defense Drivers and the Commercial Driver's License Program

The Task Force discussed the issue of personnel with military heavy truck driver's licenses who transition from military to civilian careers. The military license does not readily translate nor is it transferable to a civilian CDL. Some States have expressed interest in establishing military licensure reciprocity. However, there is uncertainty regarding the appropriate documentation or standards for verifying that CDL training requirements have been met.

Discussion

The Task Force concluded that a system incorporating military truck drivers into the CDL program could prove beneficial to military veterans seeking jobs and to the trucking industry desiring a larger pool of qualified job applicants.

At a minimum, military drivers of comparable vehicles should demonstrate competence in the knowledge and skills required for entry-level CDL. The Task Force also recommends that the armed forces adopt a training and education regime requiring behind-the-wheel and classroom instruction. Optimally, the military should issue driver's credentials to individuals only after they meet CDL-equivalent knowledge and skills requirements.

Improvement

The FMCSA should work with the U.S. Department of Defense to establish a driver training and testing program for military personnel that is equivalent to the minimum knowledge and skills requirements of civilian commercial drivers. (Recommendation 10)

3.12 Employer Access to Driver Records

Data obtained by employers from State driver records affect their decision to hire or retain individual drivers. As described in section 3.2, the Task Force recommends establishing a nationwide, subscription-based program to inform employers of adverse actions posted to their drivers' records and creating a standardized national reporting system for positive drug and alcohol tests results.

Task Force representatives from the commercial motor carrier industry expressed concern that employers lack access to complete, accurate, and timely information on their drivers. This creates a highway safety risk.

The Task Force identified the following vulnerabilities:

- States have several different types of driver information records that they provide in answer to driver status inquiries. Under Federal CDL regulations, employers and prospective employers of CDL holders are entitled to the complete driver record of current or prospective employees; however, some States disclose limited data rather than a driver's complete record.
- Employers are not aware that they are not receiving a complete driving record from the States, and they may first discover this information gap when an enforcement or compliance check reveals adverse driver information that the SDLA failed to provide.
- Employers are unaware of their access rights to data stored in the NDR.
- Employers are reluctant to release safety related information for former employees as required by FMCSRs because of privacy and liability concerns. There is a perception that lawsuits might arise from the release of this personal information.

Discussion

Improved disclosure of the complete driver record to employers requires correcting State and employer processes and procedures. The States must understand and respond to the requirements of the Federal regulations, and employers must be given guidance about their access rights and any liability concerns they may have for sharing information.

Employers have the right to access information in the federally operated NDR. Based on the limited number of requests NDR receives from employers, it appears that either employers are not aware that they may access the information, or the process for obtaining this information is too difficult for them to perform.

The NDR's central index uses information from multiple States to indicate revocations, suspensions, and certain convictions against drivers. Practical access to this information is especially important to employers because it is a means to obtain records of adverse driving behavior information from States other than the State of license for the job applicant.

Improvements

- The FMCSA should reiterate or clarify the Federal CDL requirement for States to disclose driver records. (Recommendation 1)
- The FMCSA should provide employers with clarifications of their rights to access the complete record of their drivers. (Recommendation 1)
- The FMCSA should clarify and communicate the employer rights to access data maintained in the NDR. (Recommendation 1)
- The FMCSA should work with NHTSA to determine if system changes are needed to assist employers in obtaining driver information from the NDR. (Recommendation 2)

4.0 Task Force Recommendations

Based on the detailed information in section 3, this section describes the major Task Force recommendations. The Task Force identified two special considerations during deliberations:

- Task Force recommendations in this report address fraud as it has been identified to date. Now, FMCSA should monitor the various parties involved in CMV licensing and operations to ensure continued effectiveness of existing antifraud measures. The FMCSA and its State partners also should determine if other fraudulent practices emerge over time, and then develop mechanisms to combat these practices.
- The FMCSA has been reluctant to sanction States for noncompliance with CDL program standards and practices. The Task Force encourages FMCSA to more actively use its sanctioning authority to enforce State compliance with CDL regulations.

Recommendation #1: Increase and expand the FMCSA CDL training program.

The FMCSA should increase and expand its CDL training programs to encompass all major CDL stakeholders and plan to execute that program continuously in all facets of the CDL program.

The following problems may arise without training and education on the CDL program:

- Traffic law enforcement personnel may fail to properly cite drivers and capture the information needed to adjudicate CDL and traffic offenses for CDL holders.
- Prosecutors may fail to prosecute, and the judiciary may fail to adjudicate and sentence guilty drivers based on applicable Federal laws.
- The driver licensing agencies may inappropriately license drivers.
- Employers may unwittingly hire and retain problem or ineligible drivers.

Training was a focus of the CDL program at its inception. It now needs reemphasis. The Task Force determined that a comprehensive training program involving all of the major CDL stakeholders is required throughout the life and in all aspects of the CDL program.

The following sections cross reference to the SAFETEA-LU topic and paragraph from section 3 that describes Task Force recommendations for CDL training and education.

Section 3.1, State Enforcement Practices

- The FMCSA should strengthen its CDL training and education program to ensure that traffic enforcement officers fully understand CDL program-related data that needs to be collected when a citation is written.
- The FMCSA should strengthen its CDL training and education program to ensure that the prosecutors and judges understand CDL program regulations and the role the judiciary plays in improving highway safety.

Section 3.6, Timely Notification from Judicial Bodies

- The FMCSA should undertake a focused, multiyear program of education and training, along with funding to the States for the deployment of judicial case management information systems.

Section 3.9, State Compliance

- Administrative and other staff involved in supporting the information technology infrastructure in SDLAs should receive periodic training and education regarding the Federal CDL requirements.

Section 3.12, Employer Access to Driver Records

- The FMCSA should provide clarification to employers of their rights to access the complete record of their drivers.
- The FMCSA should clarify and communicate employer rights to access data maintained in the NDR.
- The FMCSA should reiterate or clarify the Federal CDL requirements for States to disclose driver records.
- The FMCSA should work with NHTSA to determine if system changes are needed to assist employers in obtaining driver information from the NDR.

Recommendation #2: Extend and expand the use of electronic tools.

The FMCSA should extend and expand the implementation, deployment, and use of electronic tools for major CDL stakeholders in order to facilitate real-time exchange of accurate, complete, and timely information.

Section 3 contains a description of progress expected from proposed automated tools:

- Provide better data to traffic law enforcement personnel.
- Prompt traffic law enforcement officers to properly code citations.
- Quickly and accurately transfer data from law enforcement systems to the judiciary.
- Quickly and accurately transfer data from the judiciary to the SDLA in the convicting State, and then from the convicting State to the licensing State.
- Provide current and comprehensive driver record data to employers.

Following is a cross reference to SAFETEA-LU topics and section 3 paragraphs that describe recommendations for the use of electronic tools.

Section 3.1, State Enforcement Practices

- The FMCSA should work with AAMVA, NLETS, the FMCSA provider of CDLIS access and NLETS data for Mexican Licencia Federal drivers, and the States to develop procedures for providing current CDLIS driver record data continuously to both the CDLIS and NLETS authorized users.

Section 3.2, Detect and Prevent Fraud

- States should implement procedures and create automated stops in their issuance software to prevent the completion of a CDL issuance when CDLIS or NDR, or both, are not operational or when data is returned from CDLIS or NDR that normally would result in the denial of the license.
- States should stop issuance on a CDL transfer when CDLIS indicates that there is no pointer record for the driver or if the pointer points to a State that is not the same as the one on the license being transferred.
- The FEWS and CSTIMS should be implemented nationwide. The FMCSA should promote these fraud fighting systems and ensure adequate funding exists for the ongoing operation and enhancement of them.

Section 3.3, Seamless, Accurate Data Sharing Among States

- Promote deployment of electronic citation systems.
- Send all conviction data electronically.

Section 3.5, Updated Technology

- The CDLIS modernization should include self-auditing features and accommodate the medical certification information system requirements recommended by the Task Force.
- The FMCSA should formalize State best practices and document effective automated tools for detecting and deterring internal DMV fraud.

Recommendation #3: Expand the Commercial Driver's License Program Improvement (CDLPI) grant program.

Expand the CDLPI grant program to encourage and fund CDL improvements and encourage State implementation of and compliance with the CDL program goals and standards.

The CDL stakeholders will require Federal assistance to implement recommendations of the Task Force. The existing CDLPI grant program is the best mechanism available to provide that assistance.

The CDLPI grant program has funded a number of initiatives to strengthen the CDL program. The Task Force encourages continued funding of these initiatives. Several States have received grants to automate the transmission of convictions from the courts to the SDLA. Other States have established antifraud units to try to reduce the incidence of CDL fraud, and others have automated the CDL knowledge tests. The FMCSA receives more applications for grant assistance for CDL compliance and program improvement projects by the States than can be funded with currently available appropriations.

The NTSB, the DOT OIG, and NADSF have studied the CDL program and developed many recommendations for improvements to it. It is likely that those organizations will continue to make recommendations in the future. Expanding the CDLPI grants program to provide

additional grants to States specifically targeted at CDL compliance and program improvements would provide the best mechanism to ensure that States have the resources to improve their standing in the CDL program.

Recommendation #4: Separate the background check from the hazardous materials endorsement.

The fingerprint-based background record check imposed on drivers by TSA to obtain a hazardous materials endorsement is costly and duplicative. It should be replaced with a process that requires drivers to obtain a TWIC. The TWIC would certify drivers to haul hazardous or safety-sensitive materials (as designated by DOT and TSA) through a process established by TSA separate from the CDL program.

Although the background check was designed to be portable, the program has not functioned as planned. This creates difficulties for the SDLAs that administer the CDL program. A fingerprint based background check is required each time a driver renews the hazardous materials endorsement in his home State or in a new State. Additionally some States have imposed State background check requirements for the hazardous materials endorsement and do not accept the background check completed in other States. This combines to reduce the pool of drivers willing to renew or transfer their hazardous materials endorsement. Subsequently, the ability of industry to move hazardous materials cargo is hampered.

This recommendation is based on the rationale that significant program changes are being implemented, a duplication of effort is required for compliance, and the two requirements are essentially the same.

Recommendation #5: Implement a nationwide drug and alcohol positive test reporting program.

A standardized mandatory, nationwide drug and alcohol positive-test and test refusal reporting and tracking program should be established and applicable to employers and CDL holders currently subject to mandatory drug and alcohol testing. The results of positive tests and test refusals should remain in the driver's record according to standardized retention criteria to preclude the driver from evading mandated rehabilitation programs or other sanctions.

Employers, who have no access to prior test results, may unknowingly hire a driver who has tested positive for drug or alcohol use or has refused a drug or alcohol test, and then been denied employment or lost a job as a result. This recommendation to establish a database that provides the employer or medical review official the capability to check for positive drug or alcohol tests or refusals as part of the required employer checks will close a fraud loophole. Section 3.2 addresses the rationale for this recommendation.

Task Force members discussed a well-known loophole in the Federal drug and alcohol testing requirements for CDL holders that is being exploited by some drug-abusing CMV drivers. When a driver moves from one company to another, some positive drug and alcohol test results or refusals are not being discovered by the hiring company because these positive results are

self-reported, and not centrally tracked. As a result, the hiring company may not be aware of a driver's past positive drug test results and could be hiring a driver who has not been evaluated, treated and cleared to return-to-duty status.

State-based reporting efforts have been a good first step. North Carolina's program suspends a CDL holder's driving privileges until the driver completes a mandatory rehabilitation program. Task Force members also discussed the advantages of a national clearing house for CMV companies that operate on a national basis. A national clearinghouse is optimal for those companies. A national clearinghouse would ensure that any information released is done in accordance with all Federal privacy laws and statutes. Accordingly, appropriate privacy safeguards for drivers and strict access controls for authorized users would be in place. Employers, law enforcement, medical review officials, and SDLAs would be allowed to access the clearinghouse database. Alternatively, an SDLA based program would provide only indirect access to employers and law enforcement but could have the advantage of enforcing to requirement for return- to-duty determinations through license suspensions.

Recommendation #6: Integrate medical certification tracking with the CDL.

The pending rulemaking proposal to begin integrating the tracking of medical certification status information with the CDL program by recording driver reported medical certification status on the CDLIS driver record should be strengthened. It should be enhanced to prevent fraud through augmentation of CDLIS to provide seamless information system capabilities for medical examiners to report all examination results electronically to the SDLA using CDLIS.

The Task Force concluded that the rule currently proposed does not provide sufficient benefit to the CDL program to justify the costs to the States. The NPRM seems to increase compliance costs for States without fully addressing the requirements of the original authorizing legislation in 49 U.S.C. 31305(a)(7). The proposed system is still as vulnerable to driver fraud.

The following are some problems the proposed rule would not cover:

- Prevent drivers from fraudulently producing medical certificates and providing them to the SDLAs.
- Identify drivers who fail a physical examination before expiration of their certificate or update their CDLIS driver record.
- Address the practice of medical examiner shopping.

The Task Force concluded that implementing a central Web application as part of CDLIS would be the best approach for handling reporting of all medical examination reports. Indiana produced a detailed design for FMCSA of a medical examination reporting-and-tracking application. That model could assist development of a capability to ensure that only approved medical examiners on the list described in Recommendation 7 are allowed to submit medical examination reports, and that the information submitted is complete and consistent with the requirements of Part 391. The system would provide electronic transmission of medical certification status information to the licensing State as a CDLIS transaction.

The recommended CDLIS-based approach would virtually eliminate the significant staffing effects on States that would result from the proposed NPRM paper-based approach. The technological approach also would reduce the changes required for each State's CDLIS implementation, thereby reducing overall implementation costs. By eliminating the proposed paper-based processing system, the CDLIS-based approach would lower State operating costs and produce considerably higher quality data in a more timely fashion. Better data quality, the ability to achieve prompt corrections, and elimination of delays in posting data, were among the concerns voiced by motor carriers in their comments to the docket for the rulemaking.

This recommended approach would address many of the requirements of 49 U.S.C. 31305(a)(7). It would eliminate opportunities for drivers to commit fraud by creating false certificates or medical examination reports. It would also identify drivers who become unqualified before their current certification expired by receiving medical examination reports from failed physical examinations. It would highlight medical examiner shopping through multiple medical examination reports from different medical examiners. It could identify patterns of problems with certifications by particular medical examiners on the list for follow-up by FMCSA. This new CDLIS module capability could be implemented through the efforts of AAMVA as part of the CDLIS modernization effort.

Implementation of this recommendation would close all of the medical certification examiner fraud loopholes described in section 3.2. It would utilize technology similar to that proposed in recommendation 5.

The Task Force is aware of the new medical program requirements contained in SAFETEA-LU section 4116. Those new requirements include:

(E) require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator of the FMCSA, for any completed medical examination report required FMCSRs, electronically to the chief medical examiner on monthly basis; and

(F) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (E) for errors, omissions, or other indications of improper certification.

The combination of recommendations 6 and 7 would fulfill these new SAFETEA-LU medical program requirements codified at 49 U.S.C. 31149(c)(1)(E) & (F).

Recommendation #7: Create an interim list of medical examiners pending establishment of the NRCME.

The FMCSA should establish a list of medical examiners authorized to perform CMV medical examinations as part of the current rulemaking (Medical Certification Requirements as Part of the CDL). Use of the list should be integrated with the tracking of recommendation 6. The list design should be coordinated with the NRCME so that it can be incorporated seamlessly into that system as the registry is further developed and implemented.

The Task Force recommends that FMCSA implement a list of medical examiners using the existing definition for a medical examiner found in 49 CFR 390.5. The current rulemaking, Medical Certification as part of the CDL, should be modified to specify that only examiners on the list are allowed to submit medical examination reports for CDL drivers. The FMCSA could issue an interim final rule incorporating recommendations 6 and 7 based on the Task Force's recommendations, which are to go into that docket along with the comments already in the docket supporting such action.

The CDLIS central Web application discussed in recommendation 6 would ensure that medical examination reports are submitted only by examiners on the list. This recommendation would eliminate the ability of drivers or their acquaintances to fraudulently create their own medical certificates or medical examination reports (long form). This recommendation together with recommendation 6 would close all fraud loopholes in the tracking of medical certification information.

Recommendation #8: Focus the judicial outreach program.

To address problems with the 10-day conviction reporting requirement, FMCSA should undertake a focused, multiyear program of education and training, providing funding to the States for the deployment of judicial case management information systems.

The timely flow of conviction data from the courts to the convicting State's driver licensing agency, and subsequently to the licensing SDLA and employers is crucial to the success of the CDL program. The responsible driver licensing agencies cannot take driver control action until conviction information reaches them from the courts. Traffic enforcement officers, prosecutors, judges, and employers may not be able to take appropriate action against a driver if conviction information has not reached the driver's record maintained by the licensing SDLA.

The FMCSA has been actively pursuing efforts to educate prosecutors and judges regarding its essential role in the CDL program, and it continues to do so. The FMCSA participates in programs to develop and deploy information systems for use by State judiciary entities; however, political independence, diversity, and the number of State courts, plus resource constraints at the State and Federal levels, have hindered success in this area.

Sections 3.1 and 3.6 provide additional background for this recommendation.

Recommendation #9: Coordinate the CDL program with the REAL ID program.

The FMCSA and DHS should work to ensure that REAL ID and CDLIS modernization are developed in a coordinated fashion that maximizes each program's success while reducing the compliance costs and efforts for the States.

The REAL ID program could negatively affect the CDL program in the following ways:

- Divert States' efforts and resources away from operating and improving the CDL program.
- Impose requirements on States that conflict with or cause confusion regarding those of the CDL program.

- Increase the cost to States.

Section 3.8 provides additional background information for this recommendation.

Recommendation #10: Prepare Department of Defense drivers for CDL.

The FMCSA should work with the Department of Defense to establish a driver training and testing program for military personnel that includes as a minimum knowledge and skills requirements comparable to those expected of civilian commercial drivers.

The Task Force concluded that a system incorporating military truck drivers into the CDL program could prove beneficial to military veterans seeking jobs and to the trucking industry that wants a larger pool of qualified job applicants.

Section 3.11 provides additional background information for this recommendation.

Recommendation #11: Implement a nationwide proactive employer notification system.

The FMCSA should pursue the establishment of an employer notification system to notify employers of CMV operators' convictions and withdrawals. Beyond requiring employers to check the records of their drivers at least once annually, these systems provide employers with information on the license status of their drivers. Any employer notification system should be designed to provide an adequate level of privacy protection to drivers and protect the revenue stream to States.

Drivers may fail to inform their employer of driving infractions that would negatively affect their eligibility for a CDL or for employment as a commercial vehicle driver. This program would close a fraud loophole.

The Task Force noted that nationwide implementation of this program would require that a significant number of States revise their systems, resulting in increased costs for the States. These costs would need to be supported by the CDLPI grants or with other supplemental funding. The design of an employer notification system needs to provide the current level of privacy protection to drivers and to protect or enhance the revenue to States generated by selling driver history records to drivers and employers.

Section 3.2 provides additional background information for this recommendation.

Recommendation #12: Develop and implement minimum training and qualification standards.

The FMCSA should develop and implement minimum training and qualification standards for drivers, driving trainers, and driver test examiners.

Because no driver training standards exist, many drivers are trained primarily to pass the State knowledge and skills tests. The Task Force believes a gap exists between the testing required by the CDL program and the knowledge and skills needed to safely operate a CMV.

Without driver training standards, individuals who train drivers are not required to meet rigorous qualifications. In many cases, drivers with little experience themselves are training new drivers.

The Task Force recommends that FMCSA establish performance-based, minimum entry-level CMV driver training standards. The FMCSA should explore the GCDL as a part of this process. The standards for driver training programs should differentiate between motor coach and truck operations.

There are no minimum training and qualification standards for State skills test examiners. By establishing documented standards for test examiners, FMCSA could help eliminate inconsistencies in the conduct and grading of the skills tests.

Sections 3.9 and 3.10 provide additional information related to this recommendation.

Recommendation #13: Simplify FMCSA regulations.

The FMCSA should review and revise the FMCSRs to simplify them and clarify the imposition of penalties on States.

Because of uncertainty regarding the English language qualification requirement for drivers, drivers who lack the minimum English proficiency to operate safely are licensed. Task Force members discussed cases where a lack of English proficiency made drivers unable to safely complete a roadside inspection. Task Force members discussed the possible need to limit CDL testing to English only.

Task Force members discussed the need to educate employers regarding the protection afforded employers who release safety-related information on former employers to new or prospective employers. Industry representatives on the Task Force expressed concern on behalf of their members about potential legal action by former employees over the release of personnel data.

The Task Force discussed the need for FMCSA to review and examine the policy for imposing sanctions on a State when agents of the State commit CDL violations either knowingly, intentionally, purposefully, or willfully. This might include the imposition of monetary sanctions on States for noncompliance with CDL regulations. The Task Force recognizes that the lowering of the minimum penalties for noncompliance in SAFETEA-LU provides FMCSA with enhanced flexibility in the application of sanctions on States. The Task Force also discussed the use of grants as an alternatively positive incentive to meet the compliance requirements.

The Task Force discussed the difficulty that the SDLAs have in bringing other State agencies and officials into compliance. Task Force members reported instances of State agents (prosecutors and judges) intentionally disregarding the prohibitions against hardship CDLs and masking traffic convictions. The FMCSA should consider imposing monetary sanctions on States for noncompliance with this requirement if States fail to make progress in this area.

While Congress has funded the modernization of CDLIS and shortened the conviction reporting requirement to the extent that it cannot be met without using CDLIS, some States still do not use CDLIS to transmit convictions to other States. The FMCSA should promulgate regulations to require States to send and receive conviction data electronically through CDLIS.

Recommendation #14: Report convictions electronically.

The FMCSA should require that convictions of CDL drivers be reporting to the licensing State (State-of-Record) using CDLIS.

Task Force members discussed the use of CDLIS for the reporting of convictions. This discussion was based in part on the time required to process paper convictions received from other States. Currently, all States are required to receive but not transmit convictions using CDLIS.

The CDLIS Modernization is adding edits to review convictions being transmitted to other States. The use of CDLIS to transmit convictions would improve both the timeliness and accuracy of convictions received by the licensing State.

While this recommendation is contained within recommendation 2, Task Force members believed it should be included in this report as a stand-alone recommendation.

Recommendation #15: Review CDL program staffing levels.

The FMCSA should review CDL Program staffing levels in the Service Centers and adjust these to account for potential workload and appropriate service levels.

Task Force members discussed the need for each FMCSA Service Center to have a CDL program specialist on staff. This recommendation was based on discussions following fraud presentations by the OIG and a presentation on the State CDL compliance review process.

These professional staff would provide for dedicated professionals to work with States and FMCSA field personnel in the areas of fraud detection and prevention and State compliance with CDL licensing and related requirements.

People who wish to commit fraud can be very creative and resourceful. Therefore, FMCSA should conduct a regular review of potential fraud vulnerabilities to ensure that implemented antifraud measures remain effective. The staff in these new positions would provide a focal point for future initiatives to combat fraud. They could also provide support for or coordinate the training initiatives mentioned in recommendations 1, 8, and 12.

5.0 Conclusion

Following a detailed review and discussion of many issues and potential solutions, the Task Force concluded that the CDL program is a highly effective highway safety program with a fundamentally sound foundation. The CDL program needs incremental improvements rather than major modifications or restructuring. While the recommendations made in this report would improve the program, these recommendations are evolutionary in nature. They result from years of experience operating the program or of operating within the program.

The nature of the recommendations supports the Task Force opinion that the CDL program is effective. Half of the recommendations involve CDL program issues that are peripheral rather than central to the CDL program. One recommendation concerns entry-level driver training. Two recommendations involve integration of the medical certificate with the CDL, and one recommendation involves recording positive drug tests in a driver's record. One recommendation is for coordination of the REAL ID with DHS, and another recommends that the TSA background check for the hazardous materials endorsement be incorporated in the TWIC.

Many of the recommendations made by the Task Force were not technologically feasible when the CDL program was created in 1986. Implementation of recommendations concerning the integration of medical certification with the CDL and the recording of positive drug tests are possible only after emergence of the Internet and related technologies.

The effect of MCSIA is still being determined by States as some continue to implement its provisions. The Task Force discussed the need for the CDL community to have time to absorb all of these effects. This need was shared by the SDLA, trucking industry, and driver representatives, and it was considered by the Task Force during discussions. The Task Force concluded that this concern highlighted the need for technological solutions to vulnerabilities as an alternative to States' limited personnel resources. Additional statutory authority or regulatory action will also be necessary to implement some of the Task Force recommendations.

The FMCSA should focus on assisting stakeholders with the following efforts:

- Executing the existing CDL program fundamentals.
- Making incremental improvements to those fundamentals as recommended here.
- Providing stakeholders with additional automated tools.
- Making use of technological advances.

The Task Force recognizes that improvements recommended in this report that are not already being funded by existing grants, would require new financial and other resource commitments from CDL stakeholders. For the CDL program to be successful, continued Federal funding is needed to assist stakeholders in meeting these emerging obligations.