

# 2018



U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

## Employer Notification Services (ENS) **BEST PRACTICES & RECOMMENDATIONS**

### **Employer Notification Services**



# **Employer Notification Services Best Practices and Recommendations**

## **Introduction**

Currently, 18 States have Employer Notification Services (ENS) that notify employers when the driving statuses of their employees change. Prompt notification of suspensions and revocations, crashes, and other violations allows motor carriers to ensure drivers do not operate illegally. The Federal Motor Carrier Safety Administration (FMCSA) has supported the development and implementation of ENS for over 10 years. Through FMCSA's work, ENS has been piloted and studied and the American Association of Motor Vehicle Administrators (AAMVA) has provided ENS design and implementation recommendations to FMCSA through a grant.

Building on the years of work on this issue, FMCSA provides this document as a resource for States to use when considering implementing or updating an ENS. This document will guide States through the voluntary development and implementation process, including the types of data to include, the types of service, and other program considerations. In addition, this document provides information on the States with ENS already in place, so that those organizations may be resources too.

FMCSA continues to encourage the implementation of ENS by the States and promotes notification services to motor carriers with drivers licensed in those States.

Data from 2016 from the National Highway Traffic Safety Administration's Fatal Accident Reporting System indicate that 117 of the large truck and bus drivers who were involved in fatal crashes had a previous license suspension, cancellation or denial, disqualification, expiration, or otherwise had an invalid license. An ENS may have prevented some these drivers from being on the roads, and thereby being involved in these tragic crashes.

## **Abbreviations and Definitions**

AAMVA – American Association of Motor Vehicle Administrators: A tax-exempt, nonprofit organization developing model programs in motor vehicle administration, law enforcement, and highway safety. The association also serves as an information clearinghouse in these areas, and acts as the international spokesman for these interests.

CDL – Commercial Driver's License: The license granted to drivers of commercial motor vehicles (CMV) after the requisite knowledge and skills testing.

CDLIS – Commercial Driver's License Information System: An information technology system owned and operated by AAMVA that connects the States' driver licensing systems.

CDLPI – Commercial Driver's License Program Implementation: A discretionary grant program managed by FMCSA that supports programs impacting commercial drivers.

**CMV – Commercial Motor Vehicle:** A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle is a—

- (1) Combination Vehicle (Group A)—having a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Heavy Straight Vehicle (Group B)—having a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or
- (3) Small Vehicle (Group C) that does not meet Group A or B requirements but that either—
  - (i) Is designed to transport 16 or more passengers, including the driver; or
  - (ii) Is of any size and is used in the transportation of hazardous materials as defined in this section.

**DHR – Driver History Record:** A report provided by the State Driver Licensing Agency (SDLA) to show a commercial driver’s licensing, medical certification, violation, suspension, and revocation history.

**ENS – Employer Notification Service:** An information technology system or a service available to employers to receive information electronically from an SDLA on changes in employees’ DHRs. May be a State or third-party provided service.

**SDLA – State Driver Licensing Agency:** State agency responsible for issuing CDLs.

**TPP – Third Party Provider:** For the purposes of ENS, may be either:

1. A party representing a motor carrier who registers the carrier and its commercial drivers for an ENS; or
2. A company that operates an ENS for the State through a contract or other business arrangement.

### **Benefits of ENS**

Current regulations require CDL holders to report certain convictions and license actions to their employer(s) and motor carriers to check the DHR of their drivers at least annually. In a worst case scenario, a conviction may occur the day after the motor carrier receives the DHR from the SDLA and the driver does not self-report. In this case, it could be 364 days before the motor carrier becomes aware of the conviction, while the driver may be operating illegally with a suspended or revoked license. Without an automated system to notify motor carriers of driver violations and changes in license status, the current requirement for drivers to self-report and motor carriers to check annually results in a safety risk. In fact, FMCSA’s “National Driver Record Notification System Report to Congress,” issued in September 2015<sup>1</sup>, noted that suspended drivers have a crash rate that is 14 times higher than other drivers across all vehicle types.

Implementation of an ENS by a State results in timely, automated notification to a motor carrier when there is a change in the status of an employee’s CDL for reasons including, but not limited

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<sup>1</sup> <https://www.fmcsa.dot.gov/mission/policy/national-driver-record-notification-system-report-congress>

to, a conviction for a moving violation, failure to appear, crash, driver's license suspension, or revocation. It also notifies the employer of any other action taken against a driver's driving privileges. For example, the ENS would notify the employer where there are upgrades, downgrades, and when the SDLA adds or removes a restriction or endorsement.

This early notification allows employers to take appropriate action quickly. If acted on, it gives employers essential information that allows them to prevent a suspended or revoked driver from getting behind the wheel. In addition, information about non-disqualifying violations would allow motor carriers to keep drivers off the roadways until they take appropriate action. For example, a motor carrier could institute remedial training if the conviction indicated a possible trouble area.

AAMVA's report indicated that jurisdictions that have an ENS report safety and customer service improvements and efficiencies because they can provide the DHR electronically and report a change in driver status to the employer when a driver is convicted of a moving violation. States that implement an ENS should consider not only the revenue received from providing DHRs, but the benefits of improved highway safety, reduced crashes, and lives saved.

### **Regulatory Requirements**

Currently, there are multiple regulations related to ENS. Drivers convicted of violating a safety law or who have their driving privileges suspended must report the conviction to the employer. Motor carriers may not use a driver who is not properly licensed. Employers are required to obtain a DHR before hiring a driver and a motor vehicle report annually thereafter. And finally, the motor carrier is required to have the driver furnish a list of all traffic violations at least annually. Specific regulatory text for these requirements is provided at Appendix A.

### **FMCSA's Federal Register Notice**

On March 12, 2015, FMCSA published regulatory guidance in the Federal Register (80 FR 13069) titled, "Driver Qualifications; Regulatory Guidance Concerning the Use of Computerized Employer Notification Systems for the Annual Inquiry and Review of Driving Records." This notice explained that the use of State-operated ENS to check the driving record, at least annually, satisfies the requirement for an annual review of each driver's record. This includes when a third-party is used to accumulate the records for a motor carrier.

### **Congressional Direction**

Congress provided FMCSA with direction to "carry out a pilot program" in section 4022 of the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178). TEA-21 provided further direction to "initiate, if appropriate, a rulemaking to revise the information system under section 31309 of title 49 of the United States Code (U.S.C.). From 2007 to 2009, FMCSA conducted an ENS pilot program in Minnesota and Colorado. From the seven participating interstate motor carriers, over 1,000 drivers voluntarily enrolled in the program. The pilot provided three analyses of the ENS:

1. An assessment of performance, that is, the reliability of the ENS in passing the correct DHR notifications to the right carrier.
2. An assessment of the impacts, that is, faster notifications (compared to both annual pull processes and use of existing third-party, commercial monitoring services that provide monthly notifications), the safety (crash avoidance) benefits that derive from faster notifications, and the motor carrier industry and societal economic impacts of a hypothetical, nationwide ENS system.
3. An assessment of user acceptance (participating carriers' perception of the benefits and other aspects of the ENS system) and documentation of lessons learned from the pilot.

FMCSA received additional direction from Congress through section 4135 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA – LU) (Pub. L. 109-59) which required FMCSA to establish a CDL Task Force to address “timely notification from judicial bodies concerning traffic and criminal convictions” of CDL holders. The CDL Task Force completed its work in December 2008. In regards to ENS, the Task Force concluded that an ENS system would have significant safety benefits. The report included a recommendation to implement a nationwide ENS. The Task Force noted that some States would have to change their existing ENS and that grant funding from the CDLPI program should be made available by FMCSA.

Section 32303 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141) required FMCSA to “issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided” and to “develop recommendations and a plan for the development and implementation of a national driver record notification system, including an assessment of the merits of a national system expanding CDLIS and an estimate of the fees.” FMCSA provided a grant to AAMVA for recommendations on minimum standards.

In an effort to quickly advance the MAP-21 initiative and identify the States already operating ENS programs, FMCSA provided CDLPI grant funding to AAMVA. This grant supported the creation of a cadre of jurisdictional personnel whose mission was to discuss CDL issues and provide input to FMCSA on common protocols and best practices. The AAMVA-established working group consisted of representatives from 17 States. The tasking to the working group was to identify the following:

- Which jurisdictions have an ENS already in place?
- What are the types of ENS currently in existence?
- What are the basic data elements of existing ENS systems?
- What are the best practices to ensure data are accurate, consistent, and complete?
- What are the recommendations and plans for the development and implementation of a national ENS, including the merits of achieving a national system by leveraging the CDLIS?
- What is the estimate of the fees that a motor carrier would pay to offset the operating costs of a national ENS?
- What is the level of involvement of motor carriers? What are their responsibilities under a nationwide ENS?

Using the AAMVA report, FMCSA provided the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in September 2015. The AAMVA report and the follow up report provided by AAMVA in January 2017 titled, “Employer Notification System Design & Best Practices Recommendations, Release 1.0.2”<sup>2</sup> are the basis of the recommendations in this guide.

### **Existing ENS Programs**

FMCSA maintains current information on States that offer different forms of ENS on it’s website at:

Motor Carriers Page:

<https://www.fmcsa.dot.gov/registration/commercial-drivers-license/motor-carriers>

Employer Notification Services by State Page:

<https://cms.fmcsa.dot.gov/registration/commercial-drivers-license/employee-notification-services-state>

The information notes which systems meet the standards required to satisfy the annual DHR requirements.

### **Best Practices and Recommendations**

#### **Safeguarding Privacy**

The Privacy Act of 1974, the Fair Credit Reporting Act of 1970, and the Driver’s Privacy Protection Act of 1994 define the legal framework under which personal information may be collected, used, maintained, and shared by an ENS system.

Written policies should be established, including requirements addressing the protection of the confidentiality and privacy of personally identifiable information through appropriate administrative, technical, and physical safeguards to deter and detect unauthorized access, destruction, use, modification, or disclosure.

#### **Pre-Implementation Motor Carrier and Driver Outreach**

The SDLA should engage the State’s trucking and passenger-carrier companies to build support for the ENS and to identify any State-specific requirements that should be included in the ENS. For example, State-level industry associations are excellent resources for input into the State’s ENS development plans and requirements. In addition, companies with drivers in States with existing ENS can share experiences and best practices. Many States with ENS indicated that this direct engagement was critical in developing a successful service.

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<sup>2</sup> <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/ens-design-and-best-practices-recommendation>

### Motor Carrier Registration Requirements (including TPPs)

In developing and implementing an ENS, the State should focus on how to most efficiently and effectively provide information to the motor carriers that may register for and pay for this service.

Once the ENS is established, the SDLA's website should highlight the availability of this service and clearly explain the registration process. The website should provide all the necessary details and aids to understanding, such as videos and frequently asked questions (FAQs). It is recommended that the website provide information about the following items:

- How motor carriers would register their CDL-holder employees with the ENS directly or through a TPP.
- How motor carriers can register multiple drivers at the same time through a batch process, instead of requiring drivers to be added one at a time.
- How motor carriers can collect and provide a driver release, if required, to demonstrate that the driver understands the employer will be notified whenever the driver's status has changed.

### Motor Carrier Registration

At a minimum, the motor carrier should provide the following information regarding the company at the time of registration:

- Company name
- Doing Business As (DBA) name
- Mailing address
- Physical address (if different from mailing address)
- Billing address (if different from mailing address or physical address)
- Motor carrier contact person
- Contact person telephone number
- Contact person email address
- Motor carrier website
- Federal employers information number

### Driver Registration by the Motor Carrier

At a minimum, the motor carrier should provide the following information about each driver at the time of driver registration:

- Driver name
- Driver's license number
- Driver's license State
- License class
- Date of birth
- Driver address
- Driver release – if required by jurisdiction, to demonstrate the driver understands the employer will be notified whenever the driver's status has changed
- Driver's Privacy Protection Act reason

## **ENS Process**

1. Motor carrier uses an online portal to register and view information about drivers in ENS.
2. Motor carrier enters the driver information (for an individual or through a batch process for multiple drivers) when registering a driver.
3. ENS Portal finds the DHR for the driver(s) and verifies driver information exists.
4. ENS Portal sends an error message back to the motor carrier that is attempting to register or view information about the driver if the ENS Portal is not able to find a DHR, indicating that the SDLA has no record of the driver.
5. SDLA posts convictions when jurisdictional and Federal regulations require. The SDLA posts the conviction whenever the conviction is received from in-State courts or from other States, or once the appeals process has occurred and the conviction is finalized.
6. ENS monitors status changes for convictions, failures to appear, crashes, suspensions, revocations, and license and medical certification expirations.
7. ENS automatically sends a notification to the registered employer when there is a change in the status of an enrolled employee's driving privileges, or new information in the employee's DHR.
8. Motor carrier receives an email notification advising of a change in the DHR.
9. ENS provides the motor carrier the option (either within the email notification or through the ENS Portal during registration) of receiving the DHR at an additional fee. It is recommended that this be an optional feature available to the motor carrier, as some carriers will inquire about the change with the driver and may not need the DHR.
10. Optional DHR, if the motor carrier selects the option to receive it, contains, at a minimum, all of the following information in a format that is easily understood by the motor carrier:
  - Convictions
  - Crashes
  - Withdrawals
  - Failures to appear (including failures to pay and failures to comply, if applicable)
  - Driver's license suspensions and revocations
  - Medical certificate expiration
  - Driver's license expiration; and
  - Any other detail required by Federal regulations.
11. ENS allows motor carriers to customize when and what information they receive based on the change in their drivers' records.

## **Fee Models**

Motor carriers are required to obtain a copy of their DHRs annually. SDLAs provide approximately 4 million CDL holders in the United States with a DHR annually, sometimes more than once since many drivers change employers throughout the year. In many jurisdictions, the process of providing the DHR is a manual, over-the-counter process.

In considering how to set fees for the State's ENS, it is important that the State focus on more than the historical revenue from the sale of annual DHRs. Automating the notification and distribution of information to motor carriers will require fewer staff resources to complete this work. The benefit of reallocating those resources should be factored into the State's fee analysis to be accurate.



Additionally, there are many third party ENS providers with negotiable fee structures. The State should consider competitively procuring these services and structure any contracts to provide the best benefits to the State.

In order to provide estimated costs for ENS participants, a fee per registered driver is suggested, as opposed to a fee per notification. This fee should cover costs for the initial ENS set up and operations and maintenance of the system.

SDLAs should consider charging a set-up fee to cover initial costs.

The AAMVA report to FMCSA found that jurisdictions assessed a fee for each DHR transmitted to the employer/TPP in a range of \$1.50 to \$13.00 per DHR, and fees of \$0.06 to \$0.09 per notification of a change in status or conviction. In addition, if a national ENS system were to be established in the future, AAMVA noted that the annual fee per driver that is assessed to employer/TPP participants can fall in a range of \$0.11 to \$0.57 to cover costs of the initial set up and operations and maintenance of the system.

It is noted that if an SDLA enters into a contract with a TPP for ENS, the TPP will add to the fees to support the program and make a profit.

### **Outreach and Training**

It is recommended that training sessions be made available to the motor carriers/TPPs and jurisdictions to cover the following topics:

- Registration process
- Benefits to be realized from the system
- Technical considerations related to the software
- Training on how to administer and use the system
- Logging into the system
- Updating business information
- Adding and deleting employees
- Setting employer business rules
- Setting up parameters regarding when to receive notifications
- Setting up parameters regarding what type of notifications are received.
- Setting up parameters regarding when to receive DHRs.
- Outreach and training may be delivered via online portals, webinars, or conferences.

The objective should be to ensure all stakeholders are aware of the requirements and how the new system may be used to satisfy these requirements.

### **CDLPI Grants from FMCSA**

The CDLPI is a discretionary grant program that funds State CDL program compliance and implementation projects, as well as projects that support the improvement of the CDL process and motor vehicle safety. Eligible recipients include, but are not limited to, SDLAs, CMV

drivers and employers, State court officers, multi-State partnerships, and other non-profit organizations that support CDL programs. The goal of the national CDLPI grant program is to reduce the number and severity of CMV crashes in the United States by ensuring that only qualified drivers are eligible to receive and retain a CDL.

The Fiscal Year 2018 Notice of Funding Opportunity in Grants.gov for the CDLPI grants noted that funding may be used to demonstrate an innovative approach (e.g., establishing a project to reduce the CDL skills testing delays, implementing an employer notification system) with potential benefit to the National CDL program. are also eligible for High Priority/Emerging Issues grant funding. Section 32303 of MAP-21 supports the establishment of ENS. FMCSA set aside up to \$10 million in grant funding for establishing CDL notification systems.

While FMCSA cannot make any obligations for discretionary grants, States should consider submitting applications for CDLPI grants specifically for the establishment or enhancement of ENS programs in accordance with this guide.

### **Summary and Contacts**

FMCSA continues to encourage the implementation of ENS by the States and promotes the services to motor carriers with drivers licensed in those States. For more information on ENS programs, please contact Carlos “DQ” Dequina at [CDLCompliance@dot.gov](mailto:CDLCompliance@dot.gov).

## **Appendix A—Related Regulations**

### 49 CFR 383.31 Notification of convictions for driver violations.

(b) Each person who operates a commercial motor vehicle, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation), shall notify his/her current employer of such conviction. The notification must be made within 30 days after the date that the person has been convicted. If the driver is not currently employed, he/she must notify the State or jurisdiction which issued the license according to §383.31(a).

### 49 CFR 383.33 Notification of driver's license suspensions.

Each employee who has a driver's license suspended, revoked, or canceled by a State or jurisdiction, who loses the right to operate a commercial motor vehicle in a State or jurisdiction for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification. The notification must be made before the end of the business day following the day the employee received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

### 49 CFR 383.37 Employer responsibilities.

No employer may allow, require, permit, or authorize a driver to operate a CMV in the United States if he or she knows or should reasonably know that any of the following circumstances exist:

- (a) During any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a CMV who violates any restriction on the driver's CLP or CDL.
- (b) During any period in which the driver has a CLP or CDL disqualified by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV.
- (c) During any period in which the driver has more than one CLP or CDL.
- (d) During any period in which the driver, or the CMV he/she is driving, or the motor carrier operation, is subject to an out-of-service order.
- (e) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

### 49 CFR 383.51 Disqualification of drivers.

(a) General.

- (1) A person required to have a CLP or CDL who is disqualified must not drive a CMV.
- (2) An employer must not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a CMV.

49 CFR 391.23 Investigations and inquiries.

(a) Except as provided in subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971:

- (1) An inquiry to each State where the driver held or holds a motor vehicle operator's license or permit during the preceding 3 years to obtain that driver's motor vehicle record.
- (2) An investigation of the driver's safety performance history with Department of Transportation regulated employers during the preceding three years.

(b) A copy of the motor vehicle record(s) obtained in response to the inquiry or inquiries to each State required by paragraph (a)(1) of this section must be placed in the driver qualification file within 30 days of the date the driver's employment begins and be retained in compliance with §391.51. If no motor vehicle record is received from the State or States required to submit this response, the motor carrier must document a good faith effort to obtain such information, and certify that no record exists for that driver in that State or States. The inquiry to the State driver licensing agency or agencies must be made in the form and manner each agency prescribes.

49 CFR 391.25 Annual inquiry and review of driving record.

(a) Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

(b) Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, review the motor vehicle record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a commercial motor vehicle pursuant to §391.15.

- (1) The motor carrier must consider any evidence that the driver has violated any applicable Federal Motor Carrier Safety Regulations in this subchapter or Hazardous Materials Regulations (49 CFR chapter I, subchapter C).
- (2) The motor carrier must consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.

(c) Recordkeeping.

- (1) A copy of the motor vehicle record required by paragraph (a) of this section shall be maintained in the driver's qualification file.
- (2) A note, including the name of the person who performed the review of the driving record required by paragraph (b) of this section and the date of such review, shall be maintained in the driver's qualification file.

49 CFR 391.27 Record of violations.

(a) Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, require each driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he/she has forfeited bond or collateral during the preceding 12 months.

(b) Each driver shall furnish the list required in accordance with paragraph (a) of this section. If the driver has not been convicted of, or forfeited bond or collateral on account of, any violation which must be listed, he/she shall so certify.

(c) The form of the driver's list or certification shall be prescribed by the motor carrier. The following form may be used to comply with this section:

Driver's Certification

I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months.

Date of conviction

Offense

Location

Type of motor vehicle operated

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.

(Date of certification)

(Driver's signature)

(Motor carrier's name)

(Motor carrier's address)

(Reviewed by: Signature)

(Title)

(d) The motor carrier shall retain the list or certificate required by this section, or a copy of it, in its files as part of the driver's qualification file.

(e) Drivers who have provided information required by §383.31 of this subchapter need not repeat that information in the annual list of violations required by this section.

49 CFR 391.51 General requirements for driver qualification files.

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file.

(b) The qualification file for a driver must include:

(1) The driver's application for employment completed in accordance with §391.21;

(2) A copy of the motor vehicle record received from each State record pursuant to §391.23(a)(1);

(3) The certificate of driver's road test issued to the driver pursuant to §391.31(e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to §391.33;

(4) The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by §391.25(a);

(5) A note relating to the annual review of the driver's driving record as required by §391.25(c)(2);

(6) A list or certificate relating to violations of motor vehicle laws and ordinances required by §391.27;

(7)

(i) The medical examiner's certificate as required by §391.43(g) or a legible copy of the certificate.

(ii) Exception. For CDL holders, beginning January 30, 2012, if the CDLIS motor vehicle record contains medical certification status information, the motor carrier employer must meet this requirement by /obtaining the CDLIS motor vehicle record defined at §384.105 of this chapter. That record must be obtained from the current licensing State and placed in the driver qualification file. After January 30, 2015, a non-excepted, interstate CDL holder without medical certification status information on the CDLIS motor vehicle record is designated "not-certified" to operate a CMV in interstate commerce. After January 30, 2015 and until June 22, 2018, a motor carrier may use a copy of the driver's current medical examiner's certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification.

(iii) If that driver obtained the medical certification based on having obtained a medical variance from FMCSA, the motor carrier must also include a copy of the medical variance documentation in the driver qualification file in accordance with §391.51(b)(8);

(8) A Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or State Director issued in accordance with §391.49; or the Medical Exemption document, issued by a Federal medical program in accordance with part 381 of this chapter; and

(9)

(i) For drivers not required to have a CDL, a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by §391.23(m)(1).

(ii) Until June 22, 2018, for drivers required to have a CDL, a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by §391.23(m)(2).

(c) Except as provided in paragraph (d) of this section, each driver's qualification file shall be retained for as long as a driver is employed by that motor carrier and for three years thereafter.

(d) The following records may be removed from a driver's qualification file three years after the date of execution:

(1) The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by §391.25(a);

(2) The note relating to the annual review of the driver's driving record as required by §391.25(c)(2);

(3) The list or certificate relating to violations of motor vehicle laws and ordinances required by §391.27;

(4) The medical examiner's certificate required by §391.43(g), a legible copy of the certificate, or for CDL drivers any CDLIS MVR obtained as required by §391.51(b)(7)(ii);

(5) Any medical variance issued by FMCSA, including a Skill Performance Evaluation Certificate issued in accordance with §391.49; or the Medical Exemption letter issued by a Federal medical program in accordance with part 381 of this chapter; and

(6) The note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by §391.23(m).