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# *Office of Inspector General*

# *Audit Report*

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## **DISQUALIFYING COMMERCIAL DRIVERS**

*Federal Motor Carrier Safety Administration*

*Report Number: MH-2000-106*

*Date Issued: June 30, 2000*







# Memorandum

**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

Office of Inspector General

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Subject: **ACTION:** Audit Report on Disqualifying  
Commercial Drivers  
Report No: MH-2000-106

Date: June 30, 2000

From: Alexis M. Stefani  
Assistant Inspector General for Auditing

Reply to  
Attn of: JA-30

To: Acting Deputy Administrator  
Federal Motor Carrier Safety Administration

This report presents the results of our audit on actions leading to disqualifying a commercial driver after a Commercial Driver's License (CDL) is issued. An executive summary of the report follows this memorandum.

The House Committee on Transportation and Infrastructure requested that we review the effectiveness of the CDL program and this audit is the first in a series. Our audit objective was to determine the adequacy of the Federal Motor Carrier Safety Administration's (FMCSA) oversight to ensure that states take action to appropriately disqualify commercial drivers.

We found that a primary objective of the Commercial Vehicle Safety Act of 1986, limiting commercial drivers to one CDL, has been largely achieved. However, states are not disqualifying commercial drivers as required by law, and states grant special licenses to commercial drivers who pose a safety risk and withhold convictions of disqualifying violations from drivers' records, which allows unsafe drivers to continue to drive. We concluded that Federal oversight of the states' CDL programs was not adequate to reasonably ensure that unsafe commercial drivers were disqualified.

A draft of this report was provided to FMCSA on June 8, 2000. In its response FMCSA agreed there is a need to strengthen the CDL program, concurred with the report's recommendations, and provided underway and planned corrective actions. While FMCSA concurred with our recommendations, clarification on two recommendations is required. FMCSA proposed an alternative to our recommendation on modifying the oversight review process. In our opinion, this

alternative is acceptable if these more in-depth reviews are formally incorporated into the Federal review process. In addition, planned actions in response to our recommendation on centralized monitoring, while satisfying the intent of our recommendation, placed responsibility for monitoring with the information system operator and did not include a like role for FMCSA. We request that FMCSA provide clarification on its planned actions for these two recommendations. Also, we request that FMCSA provide target completion dates, within 30 days, for each underway or planned action provided in response to the report's recommendations.

We appreciate the cooperation and assistance provided by your staff. If I can answer any questions or be of further assistance, please call me at (202) 366-1992 or Tom Howard, Acting Deputy Assistant Inspector General for Highways and Highway Safety, at 202-366-5630.

Attachment

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cc: Deputy Administrator  
National Highway Traffic  
Safety Administration

# Executive Summary

## *Disqualifying Commercial Drivers* *Federal Motor Carrier Safety Administration*

Report No. MH-2000-106

June 30, 2000

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The Commercial Motor Vehicle Safety Act of 1986 (the 1986 Act) required the Federal Government and the states to limit commercial drivers to a single license and to set minimum standards for testing and licensing. The U.S. Department of Transportation issued standards for commercial driver licenses (CDLs) and all commercial drivers were required to meet those standards starting in 1992.

### OBJECTIVE

A CDL is required to operate a commercial motor vehicle (CMV)<sup>1</sup>. The House Committee on Transportation and Infrastructure requested that we review the effectiveness of the CDL program.

This audit, the first in a series, focuses on actions leading to disqualifying a commercial driver after a CDL is issued. Disqualification means the suspension, revocation, or cancellation of an individual's license to drive a CMV. The audit objective was to determine the adequacy of the Federal Motor Carrier Safety Administration's (FMCSA)<sup>2</sup> oversight to ensure that states<sup>3</sup> take action to appropriately disqualify commercial drivers.

Although the issuance of a CDL was not part of this audit, it has been the subject of an ongoing Federal investigation in the state of Illinois. This investigation has resulted in more than 30 people being charged in schemes of selling CDLs to unqualified people. In response, the Secretary of the U.S. Department of Transportation recently formed a panel of transportation experts to review the Illinois

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<sup>1</sup> CMVs includes vehicles that have a gross weight over 26,000 pounds, commercial vehicles hauling hazardous materials, or commercial vehicles transporting 16 or more passengers.

<sup>2</sup> The Federal Highway Administration had oversight over the CDL program prior to October 1999. On October 9, 1999, consistent with Section 338 of the FY 2000 Department of Transportation and Related Agencies Appropriation, the Secretary re delegated motor carrier functions to a new Office of Motor Carrier Safety in the Department of Transportation, which included oversight over the CDL program. The Motor Carrier Safety Improvement Act of 1999 established FMCSA in January 2000 and FMCSA is now responsible for the CDL program oversight. For purposes of this report, we will use the term Agency when discussing the audit results.

<sup>3</sup> States are defined as the 50 states within the United States and the District of Columbia, which have authority to issue CDLs.

CDL program. In our future audits of the CDL program, we will focus on testing commercial drivers and issuing CDLs.

## BACKGROUND

The 1986 Act required information on commercial drivers to be exchanged among states through a nationwide information system and establishment of Federal disqualifying and minimum penalties for traffic violations. The Federal Highway Administrator designated the American Association of Motor Vehicle Administrators Net, Incorporated (AAMVAnet), a subsidiary of the American Association of Motor Vehicle Administrators, to operate the Commercial Drivers License Information System (CDLIS). CDLIS serves as a nationwide clearinghouse for states to report traffic convictions of commercial drivers licensed in another state. States must notify the licensing state of commercial drivers of all moving traffic convictions.

Licensing states are required to maintain driver records showing convictions for disqualifying Federal violations and are to disqualify commercial drivers convicted of those violations *while driving a CMV*. Violations that require *immediate disqualification after a single conviction* include driving under the influence of alcohol or a controlled substance, leaving the scene of an accident, and violating an out of service order (operating a CMV when either the driver or the vehicle were placed out of service for serious safety violations).

Commercial drivers convicted twice within a 3-year period of other major traffic violations *while operating a CMV* require disqualification. These violations include excessive speeding, reckless driving, and improper or erratic lane change. Federal disqualifying violations and minimum penalties are shown in Exhibit A.

The Agency oversees the CDL program. Its state division personnel perform oversight reviews every 3 years to assess state compliance with the CDL program requirements. Under the 1986 Act, states risk the loss of highway grant funds if they do not substantially comply with Federal requirements. The Motor Carrier Safety Improvement Act of 1999 (the 1999 Act) gives the Agency the ability to prohibit states from issuing CDLs if they fail to substantially comply with Federal requirements, such as the appropriate disqualification of drivers.

Additionally, the 1999 Act establishes over 20 enhancements to the CDL program and adds 7 Federal disqualifying violations. The CDL provisions of the new law are summarized in Exhibit B. They were effective on December 9, 1999, except for provisions that require rulemakings.

## RESULTS IN BRIEF

A primary objective of the 1986 Act was to limit commercial drivers to one CDL with a larger view that one license translates into safe drivers. We found that objective has been largely achieved, but that states are not disqualifying commercial drivers as required by law. Further, states grant special licenses to commercial drivers who pose a safety risk and withhold convictions of disqualifying violations from drivers' records, which in effect allow unsafe drivers to continue to drive. If Federal reviews of state CDL programs had been of sufficient depth, these deficiencies would have been identified.

We further found that when Federal reviews identified deficiencies in state programs, the Agency did not impose available sanctions to correct the problems. Subsequent Federal reviews indicated these deficiencies, such as not implementing Federal disqualifying violations, continued to persist. *We concluded that Federal oversight of the states' CDL programs was not adequate to reasonably ensure that unsafe commercial drivers were disqualified.*

We were unable to draw nationwide conclusions on the number of commercial drivers that should have been disqualified for several reasons. First, states were not required to submit disqualification data to CDLIS. Second, CDLIS did not maintain data on out-of-state convictions. Third, the Department did not obtain consistent and complete disqualification data. Finally, state masking programs concealed an unknown number of convictions from commercial driver records.

The 1999 Act substantially enhances motor carrier safety and gives the Agency a major opportunity to improve CDL safety. The Agency recognizes the need for strengthening the CDL program and has agreed to implement the recommendations in this report.

### One License for Commercial Vehicle Drivers Largely Achieved

Our tests of 9.4 million CDLIS driver records confirmed that commercial drivers do not have multiple commercial licenses. We found that less than 650 of the 9.4 million records are potential duplicates. By contrast, before the CDL program, a Department of Transportation study reported that over 20 percent of interstate truck drivers in three states' studied had more than one license. This progress was largely achieved even as the motor carrier industry grew more than 35 percent, with a similar growth in the number of commercial drivers. Our tests were limited to computer matches of the CDLIS records. We did not assess whether drivers obtained licenses by providing fraudulent social security numbers.

## Oversight Reviews did not Identify Significant Deficiencies that Existed in State Systems

Federal oversight reviews were not sufficient to ensure proper operation of the state systems and to ensure that unsafe drivers were taken off the road. We visited 9 states and the District of Columbia (hereinafter referred to as 10 states), requested data from 41 states, and reviewed convictions transmitted through CDLIS. We identified the following deficiencies:

- At 5 of 10 states visited, state officials did not use convictions received through CDLIS to disqualify commercial drivers, even when the convictions were properly recorded on the driver records. Convictions that should have resulted in disqualification included driving a CMV under the influence of alcohol or drugs and leaving the scene of an accident.
- Seven of 10 states visited and 15 states responding to our data request allow commercial drivers to effectively avoid disqualification through special licenses or permits to operate CMVs.
- Seventeen percent or about 1,400 out-of-state convictions sent through CDLIS during our sample period were not transmitted to the licensing states within 90 days. For a 15-month period, Ohio did not send up to 1,700 convictions to licensing states. Not reporting convictions timely delays or precludes disqualification and leaves unsafe drivers on the road.
- Six of 10 states visited and 20 states responding to our data request have “masking” programs that withhold traffic convictions from commercial driver records.

The new safety law prohibits states from granting commercial drivers a special license or permit to operate a commercial vehicle or from allowing commercial drivers to participate in “masking” programs.

### *States are not Disqualifying Commercial Drivers for Major Traffic Violations as Required by Law*

We estimate that more than 14,000 convictions, nationwide, for Federal disqualifying violations are transmitted annually through CDLIS. At 6 of 10 states we visited, state officials did not use the convictions received through CDLIS to disqualify commercial drivers for major traffic violations. In five states, drivers were not disqualified even when the conviction was properly recorded on the driver record. The Federal oversight reviews did not include operational tests to determine whether state systems properly disqualified drivers.

Our analysis of the convictions transmitted through CDLIS over a 17-day period and the driver history records maintained by the licensing state, showed that over



60 percent (7 of 11) of the drivers that should have been disqualified were not. For example, 1 of the 11 drivers was a Maryland driver convicted of driving a CMV under the influence of drugs, which is an immediate Federal disqualifying violation. The conviction was transmitted through CDLIS and recorded onto the driver's record, but the driver was not disqualified. We found that while Maryland's system did record out-of-state convictions transmitted through CDLIS onto driver records, it was not programmed to use any out-of-state convictions for disqualifying actions.

These instances clearly demonstrate deficiencies in state computer systems. Because the Agency did not conduct operational tests of these systems and based on our test results, we concluded that the Agency does not have reasonable assurance that out-of-state convictions for disqualifying violations transmitted through CDLIS result in driver disqualification as required by law.

We also conducted tests through CDLIS and found problems in states that we did not visit. Our tests on the convictions transmitted and the driver records obtained through CDLIS showed that 67 percent (8 of 12) were not appropriately disqualified.

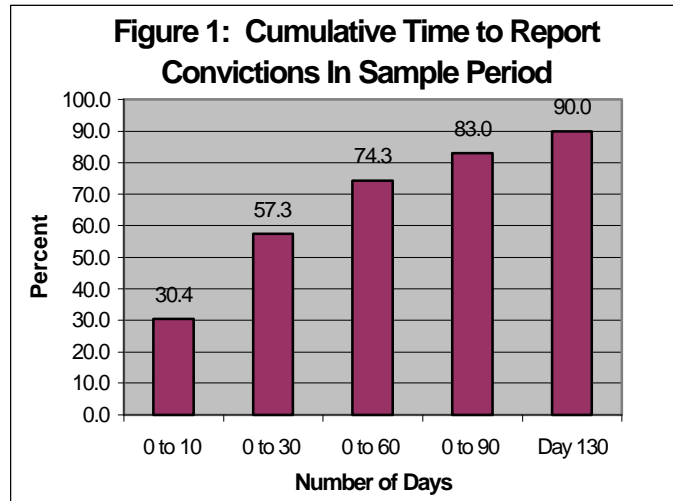
#### *Special Licenses were Given to Disqualified Drivers*

Even when systems properly disqualify drivers, states have programs that allow the use of special licenses or permits to operate CMVs. These programs effectively circumvent the requirement that the driver get off the road for committing a pattern of major traffic violations. Seven of 10 states visited and 15 states responding to our data request allow drivers to avoid disqualification actions by granting them special licenses or permits to continue to operate CMVs.

Issuance of special licenses or permits allows drivers who pose a safety risk to continue to operate CMVs. For example, the truck driver involved in the March 15, 1999 train crash in Bourbonnais, Illinois, that killed 11 people was operating under a probationary license issued by Illinois officials at the time of the incident. The new safety law prohibits issuance of special licenses and permits to operate a CMV when drivers have been disqualified.

#### *Convictions Reports not Transmitted Timely Across States*

States must notify a commercial driver's licensing state of all moving traffic convictions, either by electronic means or by providing a paper copy. In response to our data request, 45 states reported some use of electronic transmission for out-of-state convictions. Convictions that were electronically transmitted in our sample period, June 1 through June 17, 1999, were not reported to the licensing state in a timely manner. As shown in Figure 1, for 8,133 out-of-state convictions sent through CDLIS during our sample period, 17 percent or about 1,400 convictions were sent after 90 days. Even 130 days after conviction, 10 percent of the convictions had not been transmitted to the licensing state.



In Ohio, the state system failed to transmit as many as 1,700 convictions to other states for 15 months. This deficiency went undetected until our inquiry and delayed or prevented licensing states from taking disqualification actions. The Federal oversight reviews did not use the central monitoring capabilities of CDLIS to assess the timeliness of conviction reports and disqualification actions.

*Convictions Withheld from Driver Records*

State programs permit “masking” or withholding of convictions from driver records. In total, 26 states have some form of masking program that allows CDL drivers to avoid having convictions placed on their driving record or avoid accumulation of points if they attend driving school or do not commit another moving traffic violation for a specific period. For example, in Tennessee, “probation before judgment” can be issued at the discretion of the courts, which may include Federal disqualifying violations. Violations are not reported to the state-licensing department unless the driver commits another violation *in that jurisdiction* within a specified period.

The number of convictions for commercial drivers that are not reported because of masking is unknown. However, in the State of Illinois, officials estimated that tracking the number of citations now “masked” through its supervision program would increase the number of citations tracked by 1.9 million per year. This number includes both commercial and noncommercial drivers. The new safety law prohibits the states from allowing commercial drivers to participate in "masking programs".

## Sanctions were not Imposed on States When Oversight Reviews Identified Deficiencies

Even when oversight reviews identified deficiencies such as the lack of state statutes consistent with Federal disqualifying violations, sanctions were not imposed to prompt corrective action. Significant noncompliance problems related to disqualifying commercial drivers were first identified in 1995 Federal oversight reviews for 2 of 10 states visited. No sanctions were imposed. Under the 1986 Act, states risk losing at least 5 percent of highway grant funds if they did not substantially comply with Federal requirements. No highway grant funds have ever been withheld for failure to comply with CDL program requirements.

In 1995, Federal program reviews determined that the District of Columbia and New York had not passed laws making commercial drivers subject to disqualification if they violated an out-of-service order (removing a vehicle or driver from service because of serious safety violations) or establishing the related Federal penalties. Subsequent reviews, 4 years later, showed these deficiencies were not corrected and still no sanctions were imposed.

The August 1995 oversight review of the District of Columbia's CDL program, cited additional problems with the District's CDL program. The review cited the District for not establishing a system to notify the licensing state of CDL convictions, to disqualify commercial drivers for convictions of Federal disqualifying violations, and to record convictions onto commercial driver records. This review found the District to be in substantial noncompliance with Federal requirements, but no sanction was imposed. The same deficiencies were cited in the February 1999 oversight review. Again, no sanction was imposed.

In addition, oversight reviews performed during 1994 through 1999 in 32 of the 41 states not visited showed significant noncompliance issues. Subsequent reviews in 5 of 32 states showed that the same noncompliance issues persisted. Noncompliance issues may also persist in six other states because subsequent reviews have not been performed. Sanctions were not imposed in the 32 states.

The Motor Carrier Safety Improvement Act of 1999 provides additional enforcement tools to improve the effectiveness of the CDL program. The Agency can now prohibit states from issuing commercial licenses and withhold all funds allocated for the Motor Carrier Safety Assistance Program if states fail to substantially comply with Federal requirements. Unless the Agency demonstrates a willingness to use available sanctions when appropriate, its ability to ensure that state CDL systems operate as intended will be limited and the effectiveness of the CDL program will diminish. A willingness to initiate sanctions will encourage state legislatures to pass the laws needed for implementation of the new safety law.

## RECOMMENDATIONS

We recommend that the Acting Deputy Administrator of the Federal Motor Carrier Safety Administration take the following actions to improve oversight:

- Obtain corrective action plans from the noncompliant states identified in this report that include milestones and initiate sanctions as appropriate.
- Modify the program reviews to make them comprehensive and include operational testing to ensure state systems work as intended.
- Implement periodic training programs for personnel conducting CDL program reviews.
- Develop and implement centralized monitoring capabilities through CDLIS for program oversight to include testing timeliness of reporting convictions, accuracy of recording convictions, and the appropriateness of disqualification actions.
- Prepare a management report that tracks each state's implementation of the prohibitions on masking and special licensing programs.
- Impose available sanctions on noncompliant states.
- Require states to report disqualifications with the associated convictions as provided in the Motor Carrier Safety Improvement Act of 1999.

## MANAGEMENT POSITION AND OFFICE OF INSPECTOR GENERAL COMMENTS

A draft of this report was provided to FMCSA on June 8, 2000. In its response, the Acting Deputy Administrator agreed there is a need to strengthen the CDL program, concurred with the report's recommendations, and provided the underway and planned corrective actions. FMCSA's response is in the Appendix.

FMCSA concurred with our recommendations, but clarification on two recommendations is required. Specifically, we recommended modifications to the current Federal oversight review process and FMCSA proposed an alternative action. FMCSA has employed a contractor to assist in the oversight reviews that will check the elements we recommended. In our opinion, this alternative is acceptable if these additional review elements are formally incorporated into the Federal review process.

In addition, we recommended that FMCSA develop and implement centralized monitoring capabilities through CDLIS for program oversight. However, according to FMCSA's response only AAMVAnet will perform the monitoring. In our opinion, AAMVAnet should change its system to ensure that out-of-state conviction data processed through CDLIS are captured for sampling and are used for compiling

management reports. However, FMCSA should also periodically analyze data provided by AAMVAnet. Therefore, we request that FMCSA provide clarification on its planned actions to this recommendation.

While FMCSA's provided underway and planned actions in response to the recommendations in this report, target completion dates are needed for those actions. Therefore, we request that FMCSA provide written comments within 30 days containing the target completion dates for each underway or planned action and their clarification of planned actions to the recommendations on modifying the oversight review process and on centralized monitoring.

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# CHAPTER 1: INTRODUCTION

## *Background*

The Commercial Motor Vehicle Safety Act of 1986 (the 1986 Act) was designed to prevent truck and bus accidents and disqualify unsafe drivers from operating commercial vehicles (CMV). The 1986 Act prohibited commercial drivers from having more than one license and required them to demonstrate a minimum level of knowledge and driving skills before obtaining a license to drive a CMV. The 1986 Act required the U.S. Department of Transportation to issue Federal standards for commercial driver licenses (CDL)<sup>1</sup> and all drivers were required to meet those standards starting in 1992. The 1986 Act also required the development of a nationwide information system for exchanging driver-related data among the states.

The 1986 Act and implementing Federal regulations identified specific motor vehicle violations warranting disqualification penalties. States<sup>2</sup> must disqualify commercial drivers who are convicted of committing disqualifying traffic violations *while driving a CMV*. Disqualifying traffic violations that require immediate disqualification for a single conviction or that require two convictions within a 3-year period for disqualification are shown in Exhibit A. Licensing states are required to maintain driver records showing convictions for disqualifying Federal violations. All states must notify the licensing state of commercial drivers of all moving traffic convictions.

**Key Players at the National Level.** The Federal Motor Carrier Safety Administration (FMCSA)<sup>3</sup>, the National Highway Transportation Safety Administration (NHTSA), the American Association of Motor Vehicle Administrators (AAMVA), and the American Association of Motor Vehicle Administrators net, Incorporated (AAMVANet) play key roles in implementing the CDL program requirements.

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<sup>1</sup> A commercial driver's license is required to operate commercial vehicles that have a gross weight above 26,000 pounds, commercial vehicles hauling hazardous materials, or commercial vehicles transporting 16 or more passengers.

<sup>2</sup> States are defined as the 50 states within the United States and the District of Columbia, which have authority to issue CDLs.

<sup>3</sup> The Federal Highway Administration had oversight over the CDL program prior to October 1999. On October 9, 1999, consistent with Section 338 of the FY 2000 Department of Transportation and Related Agencies Appropriation, the Secretary redelegated motor carrier functions to a new Office of Motor Carrier Safety in the Department of Transportation, which included oversight over the CDL program. The Motor Carrier Safety Improvement Act of 1999 established FMCSA in January 2000 and FMCSA is now responsible for the CDL program oversight. For purposes of this report, we will use the term Agency when discussing the audit results.



- The Agency is responsible for ensuring state compliance with Federal regulations for the CDL program. Specifically, state division offices for the Agency are responsible for conducting reviews that assess state compliance with the requirements set forth in Title 49, Code of Federal Regulations, Parts 383 and 384, “Commercial Driver’s License Standards; Requirements; and Penalties,” and “State Compliance with Commercial Driver’s License program.”
- NHTSA operates the National Driver Register (NDR), a computerized database of information about commercial and noncommercial drivers who have had their licenses revoked or suspended, or who have been convicted of major traffic violations. States are required to check the NDR before issuing, renewing, or upgrading a CDL.
- AAMVANet, a not-for-profit subsidiary of AAMVA, operates the nationwide information system mandated by the Act. The Federal Highway Administrator named AAMVANet the “designated operator” of the Commercial Driver’s License Information System (CDLIS) in December 1988. The CDLIS serves as a nationwide clearinghouse for states to report traffic convictions of commercial drivers licensed in another state. The CDLIS contains a “pointer record” file with commercial driver identification data such as name, social security number, and date of birth. When an inquiry is made of CDLIS, it “points” to the licensing state where detailed driver records are located.

**Growth in the CDL Population.** Data on the total number of commercial driver records maintained by AAMVANet show 9.5 million CDL records as of August 1999, a 32-percent increase from the 7.2 million AAMVANet records in December 1994. By contrast, the overall driver population (commercial and noncommercial) increased by about 4.5 percent for the same period.

**New Safety Legislation.** In December 1999, the Motor Carrier Safety Improvement Act of 1999 was enacted, establishing a separate motor carrier department within the Department of Transportation designed to improve truck and bus safety. Provisions contained in the Motor Carrier Safety Improvement Act of 1999 establish over 20 enhancements to the CDL program, as discussed in this report and in Exhibit B. The new motor carrier law establishes additional requirements for and closes loopholes in the existing CDL program and gives the Agency enhanced enforcement tools.

Additional requirements include making a single violation of driving a commercial motor vehicle with a revoked, suspended, or canceled commercial driver’s license or driving while disqualified, a 1-year disqualifying violation. States are also prohibited in the new law from allowing commercial drivers to participate in programs that withhold traffic convictions from driver records. Those programs

are commonly referred to as “masking” programs. The new law also prohibits states from giving a driver a special license or permit to operate a commercial vehicle when his or her license has been taken away. The additional tools provided to the Agency include the ability to prohibit states from issuing CDLs if they fail to substantially comply with Federal requirements.

## ***Objective, Scope, and Methodology***

The House Committee on Transportation and Infrastructure requested that we review the effectiveness of the CDL program. This report is the first in a series of audits related to the CDL program. The audit focused on actions leading to disqualifying a commercial driver after a CDL is issued. Disqualification is the suspension, revocation, or cancellation of a person’s privilege to drive a CMV. The audit objective was to determine the adequacy of FMCSA’s oversight to ensure that states take action to appropriately disqualify commercial drivers.

**General Audit Approach.** We made site visits to 9 states and the District of Columbia, hereinafter referred to as the 10 states, and conducted detailed observations, discussions, and audit tests of policies and practices for disqualifying commercial drivers. The 10 states visited were the District of Columbia, Florida, Illinois, Louisiana, Maryland, Minnesota, New York, Ohio, Tennessee, and Texas.

These 10 states account for about one-third of the 9.5 million CDL records maintained by AAMVAnet as of August 1999. While the 10 states may not be statistically representative of all states, we believe that they represent a broad range of state programs and generally illustrate the degree of oversight being exercised over the CDL program by the Agency. We distributed a data request to CDL program officials in the remaining 41 states to obtain detailed information on policies and practices and management data maintained.

We compared Federal CDL regulations, standards, and requirements with the Agency’s oversight policies and practices. We interviewed Agency officials at state offices in the 10 states visited and reviewed documentation including CDL program reviews, correspondence between Agency and state officials, status reports from states to the Agency on unresolved compliance issues, and other related documentation.

We also reviewed state policies and practices for using conviction information to disqualify commercial drivers. We interviewed state CDL program officials in the 10 states visited as well as those involved with enforcement of driver license sanctions against both commercial and noncommercial drivers. We also interviewed state law enforcement officials responsible for enforcement of violations committed by CMV drivers. Our discussions focused primarily on state

policies and practices related to out-of-state violations transmitted electronically from states of conviction to states of licensure and on in-state violations reported by court systems to state licensing agencies.

**Audit Tests.** We conducted audit tests designed to determine whether state policies and practices resulted in appropriate disqualification of commercial drivers. The tests included analyses of sample traffic convictions drawn from 8,133 convictions that were transmitted electronically via CDLIS over a typical 17-day period (June 1 through 17, 1999). We also analyzed a random sample of 287 moving traffic violations noted in conjunction with roadside inspections conducted during fiscal years (FYs) 1997 and 1998. The specific audit tests focused on whether states: (1) accurately and completely recorded convictions on driver history records; (2) reported conviction information to states of licensure in a timely manner; (3) monitored dispositions of moving traffic violations; (4) ensured that commercial drivers convicted of CMV violations meriting disqualification were appropriately disqualified; and (5) reported unsafe drivers to the NDR. Further details on the audit tests performed and sample selections are in Exhibit C.

**Computer-Generated Data and Limitations.** To conduct this audit, we relied on computer-generated data from AAMVAnet, the Agency, NHTSA, and the 10 states visited. We did not test the general and application controls for each of the systems. However, we performed sufficient tests of all data except the NDR data. We relied upon the NDR data provided by NHTSA. In our opinion, the results in the report are valid based on these tests and other available information.

AAMVAnet provided us with electronic messages transmitted via CDLIS, from which we extracted specific messages related to convictions for out-of-state drivers. We conducted selected tests of that data and data extracted from the Agency's Motor Carrier Management Information System using available source documentation from the states. We also compared the data provided by the states with computer-generated data obtained through the AAMVAnet system. We observed controls and performed limited tests of the state systems for entering conviction information into their systems. We could not perform tests of the data NHTSA provided because we did not have direct access to the specific records produced by the NDR, thus we relied on NHTSA staff to perform these tests.

**Standards.** The audit was conducted from July 1999 through May 2000 in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States and included tests of internal controls as we considered necessary. Exhibit D lists the activities visited or contacted. The Department of Transportation's performance plans for FY 1999 did not include any goals related to the disqualification of commercial drivers.

## ***Prior Audit Coverage***

Neither the Office of Inspector General nor the General Accounting Office issued reports on the CDL program in the past 5 years. However, two reports produced by other organizations are summarized in Exhibit E.

## ***Related Investigation***

The issuance of CDLs was not part of this audit although it has been the subject of an ongoing Federal investigation in the state of Illinois. This investigation has resulted in more than 30 people being charged in schemes of selling CDLs to unqualified people. In response, the Secretary of the U.S. Department of Transportation recently formed a panel of transportation experts to review the Illinois CDL program. In our future audits of the CDL program, we will focus on testing commercial drivers and issuing CDLs.

## **CHAPTER 2: DATA ON COMMERCIAL DRIVERS**

Although our review focused on how well the states disqualified commercial drivers, we also observed that a key feature of the 1986 Act--ensuring that drivers have a single commercial license--was largely achieved. However, tests of central data to draw nationwide conclusions on the disqualification of commercial drivers are not possible because data on convictions and disqualifications are not adequate. Data are inadequate because states were not required to submit disqualification data to CDLIS, nor did CDLIS maintain specific data on out-of-state convictions. Also, the Department did not obtain consistent and complete disqualification data and state-masking programs concealed an unknown number of convictions from commercial driver records.

### ***CDLIS Data Indicate One License Goal Largely Achieved***

The CDL program's success in reaching the goal of limiting drivers to one commercial license is supported by our tests of the 9.4 million CDL records in CDLIS as of June 1999. We determined that less than 650 records out of the 9.4 million CDLs have duplicate identification numbers. By contrast, a 1981 NHTSA study found that over 29 percent of Alabama's, 32 percent of South Carolina's, and 22 percent of California's interstate drivers had more than one license. Progress in accomplishing this goal was achieved even as the motor carrier industry grew more than 35 percent with a similar growth in the number of commercial drivers.

Our tests were limited to computer matches of the CDLIS records. We did not assess whether drivers obtained licenses by providing fraudulent social security numbers, nor did we verify whether drivers obtained personal licenses in other states. The Motor Carrier Safety Improvement Act of 1999 closes a loophole under the 1986 Act, whereby a state had to check the CDLIS before issuing a CDL but not when issuing a personal license. Because of this loophole, a driver could obtain a personal license in one state while holding a CDL in another state.

The new law requires a check of the CDLIS before issuing a personal license, which closes this loophole. Prior to passage of the new law, only 16 of 49 states reported checking the CDLIS when processing new non-CDL applications.

## ***CDLIS Data not Retained***

We found that convictions for Federal disqualifying violations were recorded on driver history records, except for 4 of 41 convictions for speeding in our sample that were recorded as lesser violations than transmitted. However, the availability of historical data from CDLIS on convictions and disqualifications of commercial drivers was limited by the Department's implementation of the 1986 Act, and CDLIS data retention practices. The 1986 Act required states to notify the Secretary of Transportation or the CDLIS when a commercial driver was disqualified for at least 60 days. However, Federal regulations issued in 1994 implementing the 1986 Act did not require this provision. Rather, the regulation stated the rationale for not requiring states to report disqualifications to CDLIS was because the licensing state accomplishes disqualification and maintains the detailed driver record.

Thus, no regulations were established regarding the reporting of disqualification data and consequently, no disqualification data are centrally available for program oversight. The new safety law repeats the requirement for reporting disqualifications and adds a requirement that states must also report the violation that caused the disqualification.

In addition, although convictions on out-of-state drivers are transmitted through the CDLIS, little specific information on the convictions is retained by the CDLIS. Electronic messages, including convictions, transmitted between states are saved for only 15 to 20 days for backup purposes. While AAMVAnet regularly tabulates the volume of convictions transmitted by state, no report captures the type of convictions transmitted and no historical records are maintained from which such information could be extracted.

## ***State Data Provided are not Reliable***

The Department did not obtain reliable disqualification data from each state despite congressional interest in such data since 1994. The Agency does not have complete and consistent data on the number of drivers disqualified by the states and the reasons for those disqualifications. From 1995 through 1997, fewer than 27 states responded to an annual information request from the Federal Highway Administration (FHWA) on the number of disqualified commercial drivers.

In 1998, 40 states provided summary information that showed about 56,000 disqualifications for commercial drivers. These disqualifications were for all reasons including Federal disqualifying violations and accumulation of points leading to a license suspension. For example, in 1998 Virginia reported 8,735 disqualifications for 227,000 CDL holders and New York reported

34 for 535,000 CDL holders. In addition, 27 of the 40 states provided a significantly different number of disqualifications in response to our data request. We concluded that the data provided were unreliable.

Problems with obtaining reliable data for the CDL program are not new. In Senate Report 103-310, July 14, 1994, the Senate Committee on Appropriations requested FHWA to submit a report on the number of CMV drivers who were disqualified for specific violations. In its December 1995 response, FHWA stated that efforts to collect such data from the states resulted in the collection of incomplete data.

We noted that state efforts to collect data on commercial drivers were not consistent and that state systems did not frequently generate standard reports on the CDL program. From among the 10 states visited, only Tennessee had a standard report related to the CDL program. This may be related to the low number of commercial drivers in proportion to the overall driver population in the states, and thus, a reluctance to devote computer systems to capturing such data. Overall, fewer than 5 percent of all drivers across all states hold commercial drivers' licenses.

Additionally, traffic citation documents vary from state to state. If the citation document does not indicate that the driver is a CDL holder and that the violation occurred while operating a commercial vehicle, it is unlikely that, if convicted, the violation will be recorded properly on the driver record. Also, all convictions are not recorded onto driver records due to masking programs. The number of convictions for commercial drivers that are not reported because of masking is unknown. However, in the State of Illinois, officials estimated that tracking the number of citations now "masked" through its supervision program would increase the number of citations tracked by 1.9 million per year. This figure includes both commercial and noncommercial drivers.

### ***Inadequate Data Limit Nationwide Projection***

The lack of adequate data on convictions and disqualifications limited our ability to provide projections to a nationwide population. Our analysis of specific disqualification actions relied on conviction data extracted from CDLIS electronic transmissions occurring over a 17-day period in June 1999. We recognize that all states do not transmit convictions via CDLIS and at this time there is no requirement for states to do so. However, our tests show how well the systems worked under the most advantageous conditions--when information was exchanged via electronic means.

If automated state systems do not work in a timely manner to communicate conviction information and to properly disqualify commercial drivers; then we

expect nonautomated systems to be even less successful. In addition, if current automated systems are not working properly, future safety initiatives that increase reliance on those systems will not work as intended.



## **CHAPTER 3: ADEQUACY OF FEDERAL OVERSIGHT**

Federal oversight of the states' CDL programs was not adequate to reasonably ensure that unsafe commercial drivers were disqualified as required by law. Significant deficiencies or gaps in states' CDL programs were not identified by Federal oversight reviews. Gaps included state systems that were not working properly, state programs that allowed disqualified drivers to operate CMVs, delays in reporting convictions, and incomplete reporting of convictions. Moreover, when program reviews did identify deficiencies, sanctions were not imposed to ensure compliance with Federal requirements.

### ***Characteristics of Federal Oversight***

Oversight reviews, reliance on annual certifications by state officials, and sanctions for noncompliance are the principal mechanisms employed by the Agency to ensure states comply with Federal requirements. The reviews, required every 3 years, use a checklist, which concentrate on the state driver testing programs, the license issuing process, and review of state legislation. To be in substantial compliance, a state must meet each of the 22 Federal requirements for the CDL program, which includes the satisfactory disqualification of drivers. Under the 1986 Act states risk losing at least 5 percent of highway grant funds if they do not substantially comply with Federal requirements. The Agency records indicate that each state had received at least one review since 1994.

### ***Federal Oversight Reviews Were not Sufficient***

Federal oversight reviews were not of sufficient depth to ensure proper operation of the state systems and to ensure that unsafe drivers were taken off the road. Oversight reviews and centralized monitoring of the state systems through AAMVAnet did not test whether states' computer systems actually processed convictions and identified disqualifying violations. Specifically, no aspect of the oversight review checklist called for conducting tests of whether states appropriately disqualified drivers. Additionally, the data obtained by AAMVAnet's monitoring of CDLIS transactions and provided on a quarterly basis to the Agency were not required to and did not address whether states were appropriately disqualifying commercial drivers. More in-depth reviews are needed that actually test state systems to ensure that drivers are appropriately disqualified and fuller utilization of the data available through CDLIS are needed.

We cannot estimate the number of drivers who were not appropriately disqualified because CDLIS maintains no historical information on types of convictions transmitted. AAMVANet reports that 203,440 out-of-state convictions were sent through the CDLIS in 1998. We determined that the volume of convictions transmitted during our sample period in June 1999 did not vary significantly from other months, and that about 7 percent of the convictions transmitted were for one of the Federal disqualifying violations. Thus, assuming that the proportion of disqualifying violations remains the same, we estimate that more than 14,000 convictions for disqualifying Federal violations are transmitted each year through CDLIS.

The new law requires states to notify the Secretary of Transportation or the CDLIS when a commercial driver is disqualified for at least 60 days and to report the violation that caused the disqualification. Implementation of this provision will allow the Agency to specifically require states to report applicable disqualifications with the associated convictions to CDLIS. Without specific requirements on reporting, obtaining consistent data from the states may be difficult.

For the system to work properly, the state system must identify the specific conviction or combination of convictions on a driver's record that merit disqualification and take appropriate action. We visited 10 states, requested data from 41 states, and reviewed convictions transmitted through CDLIS and found the following deficiencies.

### ***States did not Appropriately Disqualify Drivers***

Our test of 40 disqualifying convictions received via CDLIS over a 17-day period showed that drivers were not disqualified as required by law. We reviewed the convictions transmitted through CDLIS and the driver history records maintained by the licensing state, and found that over 60 percent (7 of 11) of the drivers that should have been disqualified were not. In 6 of the 10 states visited, officials did not disqualify commercial drivers as required by law. In five of the six states this occurred even when the conviction was properly recorded. The drivers included those convicted of immediately disqualifying violations, such as driving under the influence of drugs, and convictions for other violations that lead to disqualification if multiple convictions occur within 3 years.

**Drivers Requiring Immediate Disqualification.** For the sample period, four of five states (Maryland, Ohio, Texas, and Florida) had not taken action to disqualify drivers meriting disqualification because of an immediately disqualifying violation more than 3 months after the conviction was transmitted to

the state. In these instances, the convictions were properly recorded on the driver records. Specifically,

- a Maryland driver was convicted of driving under the influence of drugs in a commercial vehicle in another state. The conviction was transmitted via CDLIS and recorded in his Maryland driver's record, but officials had not disqualified the driver for 1 year, as required by Federal regulations. In response to our query as to why appropriate action had not been taken, Maryland state officials acknowledged that although the Maryland system posts out-of-state conviction data to the driver's record, it was not programmed to identify drivers whose out-of-state convictions merit disqualification. In Maryland, over 400 convictions were received via CDLIS in the first quarter of 1999.
- Ohio did not disqualify a driver convicted of leaving the scene of an accident while driving a CMV. The conviction, received via CDLIS, was recorded on the driver's record, but did not match the codes programmed in the Ohio computer system for disqualification. Ohio personnel indicated they would request a system change to add this Federal disqualifying violation.
- a Texas driver was convicted of driving under the influence of alcohol in another state. The conviction, transmitted via CDLIS, was recorded on the Texas driving record, but Texas officials had not disqualified the driver for 1 year, as required by Federal regulations. State officials informed us they would test their system to determine why drivers who should have been disqualified were not.
- Florida did not disqualify a driver convicted of driving under the influence of alcohol while driving a CMV. The conviction, transmitted via CDLIS, was recorded on the Florida driver's record. According to Florida officials, they rely on their system, which is supposed to automatically identify Federal disqualifying convictions and generate disqualification letters. The system was not working properly.

The two remaining Tennessee drivers with immediately disqualifying violations (totally three convictions) from the sample period were appropriately disqualified. No immediate disqualifying violations were identified in CDLIS transmissions during the sample period for Illinois, Louisiana, New York, Minnesota, and the District of Columbia.

**Drivers Requiring Disqualification for Multiple Violations.** Drivers convicted for other Federal disqualifying violations may be disqualified if the convictions occur in combination over a 3-year period. Our analysis of 33 of the 40 disqualifying convictions showed 5 such instances in which disqualification was appropriate based on the conviction and the driver's record. Louisiana

appropriately disqualified 2 of the 5 drivers. However, in three other states, disqualification actions were not taken. In two states the disqualification action did not occur even though the conviction was properly recorded on the driver's record and in a third state, poor implementation of policies prevented the proper recording and subsequent disqualification of the driver. Specifically,

- In New York, officials did not disqualify a driver convicted of three major traffic violations in a 3-year period. State personnel cannot determine whether the system failed to identify the case for evaluation, or whether the examiner made an error. Officials stated that the driver was suspended after we brought the problem to management's attention.
- In Texas, a driver convicted of a combination of violations also was not disqualified although the conviction was recorded on the driver's record.
- In Tennessee a driver convicted of improper or erratic lane change was not disqualified because the conviction was not accurately recorded on the driver record. Tennessee statutes define serious traffic violations as those defined as such by the U.S. Secretary of Transportation. However, the state's implementing policies did not include improper or erratic lane change as a Federal disqualifying violation.

Tennessee officials said convictions received for improper or erratic lane changes were routinely translated to lesser violations that were not disqualifying ones. In our 17-day sample period, 10 other convictions of this disqualifying violation were transmitted through CDLIS for Tennessee commercial drivers.

**Problems in States not Visited.** We conducted additional tests by obtaining driver records through CDLIS and found problems in states that we did not visit. We checked 45 disqualifying convictions sent through CDLIS to 35 states not visited. The tests showed that 67 percent (8 of 12) of the drivers should have been disqualified based on the convictions transmitted, but 8 were not disqualified according to the driver record. Only five of the eight convictions had been recorded on driver records.

**Modifying Program Reviews.** The Agency should modify the current CDL program review process to ensure that the reviews are comprehensive. This action must include establishing mechanisms for periodically testing state computer systems to ensure commercial drivers are appropriately disqualified. Specific mechanisms should include central monitoring and testing of data on convictions transmitted through CDLIS, similar to the tests we performed. This action would enable the Agency to target oversight resources to those states with the highest risk of problems. To avoid situations, such as the one in Tennessee, the tests

should include those designed to determine how the system actually recorded convictions.

The development of a manual to aid in conducting reviews and training on its application would also help to ensure that important tests of the systems are being conducted. In our opinion, if automated state systems are not working properly it is highly likely that the requirements of the new safety law will not be effectively implemented.

## ***Special Licenses or Permits Issued to Disqualified Drivers***

Issuing special licenses or permits to CMV drivers who have had their driving privileges suspended or revoked effectively avoids disqualification actions and allows drivers who pose a safety risk to continue to operate CMVs. Seven of 10 states visited and 15 states responding to our data request allowed drivers to avoid the consequences of disqualification actions by granting commercial drivers special licenses or permits to operate CMVs.

The seven states we visited issued special use licenses to drivers who had CDLs suspended or revoked because of traffic violations committed in *noncommercial* vehicles. Four of the seven states also permit special use licenses for a violation committed in a CMV, but only if the offense was not one of the disqualifying Federal violations. None of the states visited permit special use licenses for CDL holders disqualified for one of the Federal violations. However, drivers may continue to operate commercial vehicles after convictions for violations that show a pattern of poor driving. (Exhibit F shows specific state programs.)

Variations exist for issuance of special licenses and permits. For example, New York issues a “Certificate of Relief from Disabilities,” which allows disqualified CDL holders to drive in a work-related capacity if the violation leading to the disqualification occurred in a noncommercial vehicle.

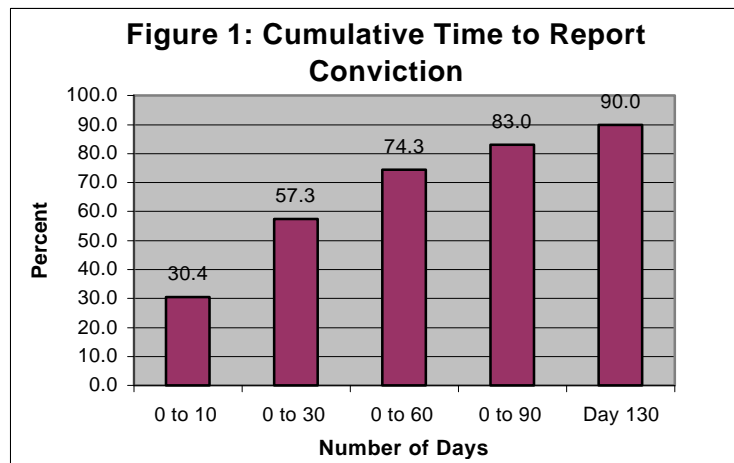
Illinois allows four different types of special licenses and permits: a probationary license, a restricted occupational permit, a restricted driving permit, and a judicial driving permit. Each has separate eligibility requirements, but they all allow a driver who has committed a non-Federal disqualifying violation in a commercial vehicle or any traffic violation in a personal vehicle to continue to operate a commercial vehicle. For example, the truck driver involved in the March 15, 1999 train crash in Bourbonnais, Illinois, that killed 11 people was operating under a probationary license issued by Illinois officials at the time of the incident.

In another example, the CDL of a Minnesota driver was suspended nine times for multiple violations, from September 1997 through June 1999. The length of the suspension increased from 30 days to 1 year over the 19-month period. However, the driver never actually had his commercial driving privileges taken away because the state issued him a limited license, eight times. In one case, a limited license was issued after the driver was suspended for violating the provisions of a previously issued limited license. Minnesota officials finally disqualified the driver without granting a special license in August 1999, although only for 4 months.

## ***Convictions not Reported Timely***

The requirement for notifying the licensing state within 10 days after a conviction was not implemented by Federal regulations. Rather, the requirement was modified to “as expeditiously as possible.” The 1986 Act and the Motor Carrier Safety Improvement Act of 1999 require reporting of convictions to the licensing state within 10 days. Not reporting convictions timely delays or precludes disqualification and leaves unsafe drivers on the road.

In response to our data request, 45 states reported some use of electronic transmission for out-of-state convictions. Overall, as shown in Figure 1, about 17 percent or 1,400 of the 8,133 traffic convictions transmitted in a 17-day period were not sent to licensing states within 90 days. Even 130 days after conviction, 10 percent of the convictions in our sample had not been transmitted to the licensing state.



We found in Ohio that as many as 1,700 convictions for out-of-state drivers had not been transmitted to the licensing states for a 15-month period. This deficiency

went undetected until our inquiry and delayed or prevented licensing states from taking disqualification actions. Our inquiry prompted state officials to identify a computer problem that delayed the transmission of these convictions.

The checklist for the oversight reviews includes no tests to ensure that licensing states actually receive the convictions. The Agency's oversight review of Ohio did not identify the problem with the transmission of convictions. Furthermore, the Agency did not periodically monitor transmissions sent via CDLIS to assess the time between transmission and the conviction date of the reports. If such testing were conducted, the Agency could measure the effectiveness of initiatives designed to improve timeliness.

## ***Withholding Traffic Convictions from Driver Records***

Masking programs withhold convictions from commercial driver's records. Six of 10 states that we visited and 20 of 40 states responding to our data request had a program that allows CDL holders to avoid having convictions placed on their driving record or avoid accumulation of points if they attend driving school or do not commit another moving traffic violation for a specific time period. These are called "masking" programs.

These programs withhold important information on a CMV operator's driving record from law enforcement officers, prosecutors, and judges who may have subsequent contact with a multiple offender. In some instances, these programs prevent the placement of traffic violations, including drug and alcohol violations, on a driving record. Exhibit F shows the specific state masking programs.

Specific state policies on masking varied depending on the statutes in the state. For example:

- In Illinois, a "supervision" program provides judges with sole authority to defer a conviction. Under current policy, Illinois courts may or may not report the supervision to the state-licensing department. As a result, many instances of supervision are not recorded on the driver history record.
- Florida has an "adjudication withheld" provision, under which the court reports the conviction to the state licensing department, which records it on the driver record. However, the driver is not assessed points for the conviction, which if accumulated could result in disqualification. The presiding judge has the authority to require the driver to complete a driving safety course to qualify for the "adjudication withheld" provision.

- In Tennessee, “probation before judgment” can be issued at the discretion of the courts. In these cases, the offense is not reported to the state licensing department unless the driver commits another violation *in that jurisdiction* within a specified time period. Consequently, a driver committing traffic violations in different jurisdictions can avoid the consequences of disqualification.

## ***Not Enforcing Compliance When Deficiencies Found***

When oversight reviews identified significant problems, we found no instances in which highway grant funds have ever been withheld for failure to comply with CDL program requirements. The withholding of such grants was the only sanction available to the Agency prior to the 1999 Act. While oversight reviews are the means for determining state compliance, the Final Rule implementing oversight reviews noted that the Agency will rely *in the first instance* on state’s annual certifications that they are compliant. As of January 2000, the Agency records showed that all states, except the District of Columbia had made certifications for 1999.

**Oversight Reviews Performed in States Visited.** Oversight reviews in 1995 determined that the District of Columbia and New York had not passed laws making commercial drivers subject to disqualification, if they violated an out-of-service order (removing a vehicle or driver from service for serious safety violations), or establishing the related Federal penalties. Reviews conducted 4 years later in these states noted that these deficiencies had not been corrected. However, no sanctions were imposed. New York passed legislation, effective in November 1999, to establish penalties required by Federal regulations.

In the District of Columbia, problems existed in addition to those associated with out-of-service violations, but sanctions were not imposed even after multiple problems were found over an extended period. The initial oversight review in August 1995, cited the District for not establishing a system to notify the licensing state of CDL convictions, to disqualify commercial drivers for convictions of Federal disqualifying violations, and to record convictions onto commercial driver records. This review found the District to be in substantial noncompliance with Federal requirements, but no sanction was imposed. The same deficiencies were cited in the 1999 oversight review. Again, no sanction was imposed.

Our tests confirmed the results of the District’s oversight reviews. In early July 1999, we found no conviction information transmitted through CDLIS was posted to driver histories. Furthermore, unlike the nine states we visited, the District system is not designed to automatically identify drivers meriting disqualification



and must rely on manual reviews as a control mechanism to ensure appropriate disqualification. In our opinion, this limitation does not provide adequate assurance that commercial drivers are appropriately disqualified.

In other states we visited, some deficiencies noted in previous reviews were corrected in subsequent reviews, although others remained. For example, Ohio passed a law regarding the violation of an out-of-service order following a review that noted this deficiency. In August 1999, Louisiana passed a law excluding CMV violations from masking programs following 1995 and 1997 reviews noting this deficiency. However, repeat deficiencies in the area of testing for commercial licenses were uncorrected in Florida and Louisiana after two separate oversight reviews beginning in 1994.

**Oversight Reviews for States Not Visited.** For the 41 states not visited, oversight reviews conducted in 1994 through 1999 identified 32 states with at least 1 of the 22 program areas as noncompliant. The most frequent area cited was not adopting penalties for violating out-of-service orders. Subsequent reviews showed deficiencies persisted in five states. For example, California was cited for repeat deficiencies in the initial 1995 review and in a subsequent 1998 review. Problems included not implementing requirements on violating an out-of-service order and not conducting evaluations of third party testing sites according to Federal requirements. For six other states, problems may persist because subsequent reviews have not been conducted to ensure that corrective actions were taken.

The state certifications the Agency relied upon permit states to exempt areas of noncompliance. The Agency permitted states to submit such modified certifications in 1996 in situations in which the state had a pending resolution date for the state legislative session in the following year. California's certification for FY 1999 included 10 certification exemptions. These exemptions included items that were noted in the 1995 oversight review, such as not establishing required disqualification penalties for drivers convicted of violating an out-of-service order or drivers falsifying information, and dismissing major traffic violations committed by commercial drivers upon attending traffic school. The California certification noted that the Department of Motor Vehicles had submitted legislative proposals multiple times on these issues in an attempt to bring California into compliance. No anticipated date for passage by the legislation was submitted.

## ***Conclusion***

Federal oversight of the states' CDL program has not been adequate to reasonably ensure commercial drivers were disqualified. The state CDL programs for properly disqualifying commercial drivers can be successful only when state

systems properly identify drivers who should be disqualified and take action, when convictions are properly reported and recorded, and when proper policies are in place. We identified deficiencies in state systems in each of these areas. These deficiencies create gaps in the state programs that prevent or delay the disqualification of commercial drivers who merit such action. Further, until state programs granting special licenses to disqualified commercial drivers and withholding disqualifying convictions from commercial driver records are stopped, unsafe drivers will continue to be allowed to drive and to circumvent the law.

Additionally, the actions taken by the Agency to cause states to correct identified problems have not been effective. Unless the Agency demonstrates a willingness to use available sanctions when appropriate, its ability to ensure that state systems operate as intended, and that state legislatures take actions that are required will be limited, and the effectiveness of the CDL program will diminish.

## ***Recommendations***

We recommend that the Acting Deputy Administrator of the Federal Motor Carrier Safety Administration:

1. Require the states identified in this report to provide the Administrator with action plans containing milestones for implementing corrective action. Initiate sanctions if corrective actions are not taken within a reasonable time period.
2. Modify the current CDL program review process to include development of a manual for conducting on-site reviews that:
  - (a) determine whether all conviction codes leading to disqualification are recognized by state systems, (b) ensure that state policies address all Federal disqualifying violations, (c) ensure that electronic transmissions of conviction information is received by the licensing state, (d) ensure that all out-of-state violations are actually recorded, and (e) include operational testing on whether states are complying with the prohibition on masking and special licenses.
3. Implement periodic training programs for personnel conducting CDL program reviews.
4. Develop and implement centralized monitoring capabilities through CDLIS for program oversight. As a minimum, changes should include:
  - a. Periodic sampling of convictions to (1) identify convictions for disqualifying violations that can be analyzed as a means of

identifying state systems with potential problems and (2) quantify the median time required by states between conviction date and the transmission of conviction, and (3) ensure the accuracy of recording convictions received through CDLIS.

- b. Establishment of management reports that capture the types and quantity of convictions transmitted among states and compare this information to disqualification data obtained from the states.
5. Implement the Motor Carrier Safety Improvement Act of 1999 provision that requires reporting disqualifications by specifically requiring the states to report applicable disqualifications with the associated convictions. These disqualification records must be electronically retrievable and used for Federal oversight to improve effectiveness of the CDL program.
6. Impose available sanctions on noncompliant states when corrective actions are not taken based on oversight review results or if the state fails to correct a certification exemption in a timely manner.
7. Establish a management report to monitor implementation by each state of provisions of the Motor Carrier Safety Improvement Act of 1999 that prohibit masking and the issuance of special licenses.

## ***Management Position and Office of Inspector General Comments***

A draft of this report was provided to FMCSA on June 8, 2000. In its response, the Acting Deputy Administrator agreed there is a need to strengthen the CDL program, concurred with the report's recommendations, and provided the underway and planned corrective actions. FMCSA's response is in the Appendix.

The FMCSA response to:

- Recommendation 1 stated that each state identified in the report would receive a letter outlining the problems discovered in its CDL program. If problems discovered place the state in substantial noncompliance and they are not addressed timely, available sanctions will be executed.
- Recommendation 2 proposed an alternative action. FMCSA has employed a contractor to assist in the oversight reviews that will check the elements we recommended. In our opinion, this alternative is acceptable if these modifications are incorporated into the Federal review process and are not a one-time event.

- Recommendation 3 stated a “CDL State Compliance” training course has been developed and the first class was held the week of May 8<sup>th</sup>.
- Recommendation 4 stated the CDLIS central site could be modified to achieve the recommendation. FMCSA plans to rely on AAMVAnet to perform the monitoring. While satisfying the intent of the recommendation, the response did not discuss the FMCSA role in the monitoring process. In our opinion, AAMVAnet should change its system to ensure that out-of-state conviction data processed through CDLIS are captured for sampling and are used for compiling management reports. However, FMCSA should also periodically analyze the data provided by AAMVAnet. Therefore, we request that FMCSA clarify its planned actions to this recommendation.
- Recommendation 5 stated that AAMVAnet had added the requirement to its Strategic Plan and budget for FY 2001 and beyond.
- Recommendation 6 stated that if a state is found to be in substantial noncompliance with Federal regulations, FMCSA will use all sanctions provided in both the Commercial Motor Vehicle Safety Act of 1986 and the Motor Carrier Safety Improvement Act of 1999.
- Recommendation 7 stated FMCSA would develop a monitoring mechanism to track each state’s implementation.

While FMCSA’s provided underway and planned actions in response to the recommendations in this report, target completion dates are needed for those actions. Therefore, we request that FMCSA provide written comments within 30 days containing the target completion dates for each underway or planned action and their clarification of planned actions to Recommendations 2 and 4.

# EXHIBITS

## **Exhibit A. Federal Disqualifying Violations**

Under November 1999 Federal regulations, states must take action to disqualify commercial drivers for specific time periods after a driver commits certain violations *while driving a CMV*. Some violations require disqualification after a single conviction and other violations require more than a single conviction before a disqualification is imposed. The specific violations and the penalties are detailed in Title 49, Code of Federal Regulations, Part 383 and summarized in the two tables that follow.

<b>Table A. 1. Violations Requiring Disqualification After a Single Conviction</b>			
<b>Violation</b>	<b>First Offense Penalty</b>	<b>Second Offense Penalty</b>	<b>Third Offense Penalty</b>
Driving a CMV under the influence of alcohol – blood alcohol content of 0.04 percent	1 year disqualification if no hazardous material involved 3 years if hazardous material involved	Life disqualification (eligible for reinstatement after 10 years*)	Life disqualification (not eligible for reinstatement)
Driving a CMV under the influence of a controlled substance	1 year disqualification if no hazardous material involved 3 years if hazardous material involved	Life disqualification (eligible for reinstatement after 10 years*)	Life disqualification (not eligible for reinstatement)
Leaving the scene of an accident involving a CMV	1 year disqualification if no hazardous material involved 3 years if hazardous material involved	Life disqualification (eligible for reinstatement after 10 years*)	Life disqualification (not eligible for reinstatement)
Committing a felony while in a CMV but not involving manufacturing, distributing, or dispensing a controlled substance	1 year disqualification if no hazardous material involved 3 years if hazardous material involved	Life disqualification (eligible for reinstatement after 10 years*)	Life disqualification (not eligible for reinstatement)
Committing a felony while in a CMV involving manufacturing, distributing, or dispensing a controlled substance	Life disqualification (not eligible for reinstatement)	Not applicable	Not applicable
Violating an out-of-service order	90-day minimum disqualification	1 to 5 years disqualification in any 10-year period	3 to 5 years disqualification in any 10-year period
Violating any of six railroad crossing rules (Rule went into effect October 4, 1999)	60-day disqualification	120-day disqualification (if offense within 3 years of first offense)	1-year disqualification (if offense within 3 years of first offense).

\*Reinstatement requires successful completion of an appropriate rehabilitation program that meets the standards set by the state-licensing department.

<b>Table A. 2. Violations Requiring More than a Single Conviction Before a Disqualification is Imposed</b>			
<b>Violation</b>	<b>First Offense</b>	<b>Second Offense Within a 3-Year Period*</b>	<b>Third Offense Within 3 Years of First Offense*</b>
Excessive speeding	Recorded	60-day disqualification	120-day disqualification
Reckless driving	Recorded	60-day disqualification	120-day disqualification
Improper or erratic lane change	Recorded	60-day disqualification	120-day disqualification
Following too closely	Recorded	60-day disqualification	120-day disqualification
Violation in connection with a fatal accident	Recorded	60-day disqualification	120-day disqualification

\*Multiple offenses may be a combination of different violations.

The Motor Carrier Safety Improvement Act, enacted on December 9, 1999, adds more disqualifying violations and requires the state to take actions to disqualify drivers based on drug or alcohol-related convictions involving noncommercial vehicles. Table A. 3 shows the additional disqualifying violations.

<b>Table A. 3. Additional Disqualifying Violations Required Under the Motor Carrier Safety Improvement Act of 1999</b>
<ul style="list-style-type: none"> <li>• Driving a commercial vehicle with a revoked, suspended, or canceled CDL or driving while disqualified</li> <li>• Conviction for causing a fatality through the negligent or criminal operation of a commercial vehicle</li> <li>• Driving a commercial vehicle without obtaining a CDL</li> <li>• Driving a commercial vehicle without a CDL in possession</li> <li>• Driving a commercial vehicle when the individual has not met the minimum testing standards for the specific class of vehicle or type of cargo</li> <li>• CDL holder convicted of a serious offense involving a <b>noncommercial vehicle</b> that resulted in license suspension, cancellation, or revocation (<i>regulation required on disqualification period</i>)</li> <li>• CDL holder convicted of a drug or alcohol-related offense involving a <b>noncommercial vehicle</b> (<i>regulation required on disqualification period</i>)</li> </ul>

## ***Exhibit B. CDL Related Requirements in the Motor Carrier Safety Improvement Act of 1999***

In addition to establishing the Federal Motor Carrier Safety Administration, the Motor Carrier Safety Improvement Act of 1999 requires changes in state laws and policies related to the CDL program. The law called for other actions such as the conduct of studies. The following table describes the CDL related requirements and actions included in the 1999 Act.

<b>Table B. Key CDL Related Requirements in the Motor Carrier Safety Improvement Act of 1999</b>			
<b>Section</b>	<b>Title</b>	<b>Key Requirements</b>	<b>Other CDL Related Actions (Reporting, Studies, and Other)</b>
103	Additional Funding for Motor Carrier Safety Grant Programs	(1) If a State is not in substantial compliance with each commercial driver's license requirement, the Secretary of Transportation shall withhold all amounts that would be allocated under this section.  (2) Permits up to \$1 million to a state for emergency grants when the state may fail to meet compliance requirements.	
104	Motor Carrier Safety Strategy	None	FMCSA submit strategy to Congress for improving operator and carrier safety.
105	Commercial Motor Vehicle Safety Advisory	None	FMCSA establish a safety advisory committee.
107	Effective Date	None	Act effective upon enactment (December 9, 1999)
201	Disqualifications.	(3) Requires rulemaking to disqualify CDL holders for certain non-CMV convictions.  (4) Disqualify CDL holders for driving a CMV when CDL is revoked, suspended, or canceled, and for causing a fatality through negligent or criminal operation of a commercial motor vehicle.	None



**Table B. Key CDL Related Requirements in the Motor Carrier Safety Improvement Act of 1999**

Section	Title	Key Requirements	Other CDL Related Actions (Reporting, Studies, and Other)
202	Requirements for State Participation	<ul style="list-style-type: none"> <li>(5) FMCSA given authority for emergency disqualification.</li> <li>(6) Disqualify CDL holders for driving a CMV when the individual has not obtained a CDL, while the individual does not have a CDL in his/her possession or for driving without the required endorsements.</li> <li>(7) 10-day notification for reporting convictions.</li> <li>(8) Prohibition on special licenses or permits.</li> <li>(9) Record all violations and end masking.</li> <li>(10) Before issuing a CDL to an individual or renewing such a license, the State shall request from any other State that has issued a driver's license to the individual all information about the driving record of the individual.</li> <li>(11) Not later than 10 days after disqualifying the holder of a CDL from operating a commercial motor vehicle for at least 60 days, the State shall notify the Secretary or the operator of the information system and the State that issued the license, of the disqualification, revocation, suspension, or cancellation, and the violation that resulted in the disqualification, revocation, suspension, or cancellation.</li> <li>(12) The State shall maintain, as part of its driver information system, a record of each violation of a State or local motor vehicle traffic control law while operating a motor vehicle for each individual who holds a CDL. The record shall be available upon request to the individual, the Secretary, employers, prospective employers, State licensing and law enforcement agencies, and their authorized agents.</li> <li>(13) State must revoke, suspend, or cancel the CDL of an individual who violates regulations enforcing an out-of-service period for alcohol use.</li> </ul>	None

**Table B. Key CDL Related Requirements in the Motor Carrier Safety Improvement Act of 1999**

<b>Section</b>	<b>Title</b>	<b>Key Requirements</b>	<b>Other CDL Related Actions (Reporting, Studies, and Other)</b>
202	Requirements for State Participation	(14) State must revoke, suspend, or cancel CDLs in accordance with regulations established for CDL disqualification for serious offenses or drug or alcohol offenses involving vehicles other than CMVs.	
203	State Noncompliance	(15) Grants FMCSA sanction to prohibit states from issuing CDLs.	None
204	Checks Before Issuance of Driver's Licenses	(16) Requires states to check NDR and CDLIS personal licenses before issuing or renewing of personal licenses.	None
212	Commercial Van Rulemaking	(17) Requires rulemaking to determine which motor carriers operating CMVs designed or used to transport between 9 and 15 passengers for compensation will be covered.	None
214	CDL School Bus Endorsement	(18) Requires Rulemaking for CDL school bus drivers.	None
215	Medical Certificate	(19) Requires rulemaking to provide for a Federal medical qualification certificate to be made a part of CDLs.	None
221	State-to-State Notification of Violations Data	(20) Calls for establishing uniform system to support electronic transmission of conviction data based on the study.	FMCSA provide Congress with status report on implementation of this section.
222	Minimum and Maximum Assessments	(21) Secretary of Transportation shall impose civil penalties at level calculated to ensure prompt and sustained compliance with Federal motor carrier and commercial driving laws.	FMCSA perform civil penalties study.
224	Study of CMV Crash Causation	None	FMCSA perform crash causation study.
225	Data Collection and Analysis	None	FMCSA report to Congress and provide recommendations for improved data on crashes involving CMVs.
226	Drug Test Results Study	None	FMCSA report to Congress with appropriate recommendations.

## ***Exhibit C. Details on the Audit Tests***

We conducted audit tests designed to determine whether state policies and practices resulted in appropriate disqualification of commercial drivers. The tests included analysis of 9.4 million CDL holders as of June 1999 and of 8,133 convictions that were transmitted electronically to 50 states and the District of Columbia over a typical 17-day period. We also analyzed a random sample of 287 moving traffic violations noted in conjunction with roadside inspections conducted during FYs 1997 and 1998. We did not attempt to track citations from state police records to other licensing states because the Department had an ongoing research effort in that area.

Our specific audit tests focused on whether states: (1) accurately and completely recorded convictions on driver history records; (2) reported conviction information to states of licensure in a timely manner<sup>\*</sup>; (3) monitored dispositions of moving traffic violations; (4) ensured that commercial drivers convicted of CMV violations meriting disqualification were appropriately disqualified; and (5) reported unsafe drivers to the NDR. Details on the audit tests are provided below.

**Accurately and Completely Recording Convictions.** To test the accuracy and completeness of out-of-state conviction information recorded on driver history records, we compared a sample of conviction records transmitted electronically from the state of conviction to the state of licensure. We conducted two tests of state policies and practices for recording convictions. First, we tested, in each state visited, whether 20 (4 in the District of Columbia) randomly selected convictions transmitted electronically via CDLIS from June 1 through 17, 1999, were posted to driver histories. Second, we judgmentally selected 121 conviction records for violations which were considered to be Federal disqualifying violations from those transmitted electronically from June 1 through 17, 1999 and tested whether reports were posted to driver history records in the 10 states we visited (61 convictions--40 in a CMV and 21 in a personal vehicle) and in 35 other states we did not visit (60 convictions--45 in a CMV and 15 in a personal vehicle).

**Reporting Convictions in a Timely Manner.** To test the timeliness with which out-of-state conviction information was reported to states of licensure, we compared traffic conviction records transmitted electronically between states via CDLIS from June 1 through 17, 1999, to driver histories in the state of licensure. We did not include in our sample convictions transmitted between states on paper. This resulted in a sample of 8,133 conviction transmissions. We evaluated timeliness by calculating the difference between the conviction date and the date the conviction information was transmitted by the network to the state of

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<sup>\*</sup> A timely manner is defined by law as within 10 days and by Federal regulations as "expeditiously as possible."

licensure. Because specific transmission dates were unavailable, we developed a conservative estimate of the time between conviction date and transmission date by assuming for this analysis that all convictions transmitted from, June 1 through 17, 1999 were transmitted on the earliest possible date - June 1, 1999.

**Dispositions of Traffic Violations.** Our analysis of moving traffic violations recorded in the Agency's Motor Carrier Management Information System (MCMIS) focused on whether violations resulted in convictions, roadside warnings, judicial plea bargains, or court dismissals or whether they were pending-in-court. To develop our test sample of MCMIS violations, we extracted driver information for a universe of 248,640 moving traffic violations noted in conjunction with roadside inspections conducted during FYs 1997 and 1998. The universe included 107,650 in-state violations (from the 51 states except California and Hawaii) and 140,990 out-of-state violations (from the 51 states). We selected a statistical random sample from the 68,982 (22,853 in-state and 46,129 out-of-state) moving traffic violations committed by drivers licensed by the 10 states we visited. The statistical random sample consisted of 287 violations (187 in-state and 100 out-of-state) occurring between October 1996 and December 1998.

We extracted roadside inspection information from MCMIS for each of the 287 moving traffic violations in our statistical random sample. At each state visited, we requested a copy of the official driving record for each driver. We also requested a copy of the inspection report, citation document, and the disposition of the citation. For sample violations with adequate documentation, we compared the documents to determine the disposition of the citation and whether convictions were recorded on the driver record.

We could not quantify the degree to which traffic violations observed in conjunction with roadside inspections led to convictions being posted on a driver's record. Federal regulations do not require it, and some states did not provide the citation number on safety inspection records. Thus, the citation number could not be used to track the disposition of citations from the law enforcement records to the judicial system. The states also did not consistently record whether the traffic violation resulted in a roadside warning ticket. Because of these limitations, we were not successful in obtaining the data needed for determining the degree to which roadside stops resulted in recorded convictions.

**Ensuring Drivers are Disqualified When Appropriate.** To test whether drivers warranting a CDL withdrawal action are appropriately disqualified, we selected and analyzed 40 disqualifying CDL convictions recorded as being committed in a CMV, transmitted electronically from June 1 through June 17, 1999, to the 10 states we visited. For the period covering June 1 through June 17, 1999, we also selected and analyzed 45 disqualifying CDL convictions transmitted electronically to 35 of the 41 states we did not visit. For each state, we

selected, at a minimum, all immediate disqualifying convictions including driving under the influence of alcohol or drugs, leaving the scene of an accident, and felony involving use of a CMV.

For those states visited, we selected, where available, at least one major moving CMV violation that may lead to suspension or disqualification action, if combined with another major traffic conviction within 3 years. Major violations include excessive speeding, reckless driving, improper or erratic lane change, following too closely, and violation in connection with a fatal accident.

**Reporting to the NDR.** We provided NDR program officials at NHTSA Headquarters with identifying information for 78 CDL holders disqualified within the past 5 years from among 9 of the 10 states we visited. We were not allowed direct access to NDR records, and we relied on NHTSA officials to perform a query of the NDR for the 78 drivers. NDR program officials performed two types of searches for individuals who had suspensions or disqualifications posted to state driver history records: (1) an exact match criteria, searching for an exact match on last name, first initial of the first name, date of birth, and driver license number and (2) a “normal NDR search process,” which allows for slight deviations in personal information such as name; drivers license number; and date of birth.

A test that NDR staff performed for us indicated that commercial drivers at states visited who were disqualified for violations that must be reported to the NDR, were included on the NDR database. The results also indicated that states may be reporting disqualifications for offenses such as failing to appear for a court date or failing to pay a fine where reporting to the NDR is not required by Federal regulations. We could not verify the tests of the data provided by the NDR staff or draw definite conclusions in the area because we did not have direct access to the specific records produced by the NDR.

NHTSA relies on the states to report appropriate information to the NDR. States must report to the NDR those drivers denied a license for cause; whose motor vehicle license is canceled, revoked, or suspended for cause; and convicted of driving under the influence (drugs and alcohol), reckless driving, racing, violations arising in connection with a fatal crash, failure to render aid, and perjury related to a motor vehicle offense. Only license cancellations or suspensions for certain violations, such as driving under the influence, must be reported. According to NDR staff, they did not have tests for determining whether states were complying with reporting provisions although they planned to design such tests.

## ***Exhibit D. Activities Visited or Contacted***

### **United States Department of Transportation**

Office of the Secretary, Washington, DC  
Federal Highway Administration, Washington, DC  
Federal Motor Carrier Safety Administration Headquarters, Washington, DC  
Federal Motor Carrier Safety Administration State Division Offices (District of Columbia, Florida, Illinois, Louisiana, Maryland, Minnesota, New York, Ohio, Tennessee and Texas)  
National Highway Traffic Safety Administration

### **State Offices Visited**

District of Columbia Department of Motor Vehicles  
District of Columbia Metropolitan Police Department  
Florida Department of Highway Safety and Motor Vehicles, Division of Driver Licenses  
Illinois Secretary of State, Driver Services Department  
Illinois Department of Transportation, State Police, Division of Operations of Commercial Vehicles  
Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles  
Louisiana State Police, Civil Penalty Administration Office, MCSAP  
Maryland Motor Vehicle Administration  
Maryland State Police  
Minnesota Department of Public Safety, Driver and Vehicle Services Department  
Minnesota Department of Transportation, Motor Carrier Bureau  
Minnesota State Patrol  
New York Department of Motor Vehicles  
New York State Police  
Ohio Department of Public Safety  
Ohio State Highway Patrol  
Tennessee Department of Safety  
Tennessee Highway Patrol, Commercial Vehicle Enforcement  
Texas Department of Public Safety, Motor Carrier Bureau, License and Weight

### **States Receiving Data Request**

Alabama Department of Public Safety  
Alaska Department of Motor Vehicles  
Arizona Department of Transportation, Motor Vehicle Division

Arkansas State Police  
California Department of Transportation, Department of Motor Vehicles  
Colorado Department of Public Safety, Driver License  
Connecticut Department of Motor Vehicles  
Delaware Department of Public Safety, Division of Motor Vehicles  
Hawaii Department of Transportation, Motor Vehicle Safety  
Georgia Department of Public Safety  
Iowa Motor Vehicle Division  
Idaho Transportation Department  
Indiana Department of Revenue, Bureau of Motor Vehicles  
Kansas Division of Motor Vehicles  
Kentucky Department of Transportation  
Massachusetts Department of Public Safety  
Maine Department of Public Safety  
Michigan Department of State  
Missouri Department of Revenue, License Issuance  
Mississippi Department of Public Safety  
Montana Department of Justice, Motor Vehicle Division  
North Carolina Department of Transportation, Driver Licensing  
North Dakota Department of Transportation  
Nebraska Department of Motor Vehicles  
New Hampshire Department of Safety  
New Jersey Division of Motor Vehicles  
New Mexico Motor Vehicle Division  
Nevada Department of Motor Vehicles  
Oklahoma Department of Public Safety  
Oregon Department of Motor Vehicles  
Pennsylvania Department of Transportation  
Rhode Island Division of Motor Vehicles  
South Carolina Department of Public Safety  
South Dakota Department of Commerce and Regulation, Driver Licensing  
Utah Department of Public Safety  
Vermont Department of Motor Vehicles  
Virginia Department of Motor Vehicles  
Washington Department of Licensing  
Wisconsin Department of Motor Vehicles  
West Virginia Department of Motor Vehicles  
Wyoming Department of Transportation

## **Associations**

American Association of Motor Vehicle Administrators and its subsidiary,  
AAMVA.net, Incorporated

## ***Exhibit E. Other Studies and Reports***

### **FEDERAL HIGHWAY ADMINISTRATION STUDIES AND REPORTS**

#### **Office of Motor Carrier Research and Standards, Commercial Driver's License Effectiveness Study**

The Federal Highway Administration (FHWA) Office of Motor Carrier and Highway Safety (OMCHS) issued the Commercial Driver License Effectiveness Study\* in September 1998. The study's objective was to evaluate the effectiveness of the CDL program in improving highway safety and, in particular, reducing the frequency and severity of commercial motor vehicle accidents.

The study concluded that the CDL program has made significant progress toward improving highway safety by reducing the frequency and severity of commercial motor vehicle accidents since its inception in 1993. Specifically, the study concluded that: (1) the incidence of CDL holders possessing multiple licenses has been vastly reduced, (2) improved testing requirements eliminated many problem drivers who had been operating commercial motor vehicles, (3) states have revised their laws to be consistent with the Federal regulations, (4) states have been able to identify CMV operators with multiple convictions and apply appropriate disqualification penalties, (5) most officers at the state level are sufficiently familiar with CDL requirements, (6) states do not administrate and operate the CDL program consistently, (7) states are not uniform in the administration and operation of the states' segment of the national CDL program, and (8) a more detailed process of oversight and management of states' activities may be required at the Federal level.

The study recommended that FHWA: (1) develop a formal peer review process for ongoing review, assessment, correction, and continuous improvement of the states' implementation of the CDL program, in part, by other state CDL program officials, (2) raise the Federal minimum standards for CDL testing because most state tests are more stringent than the minimum Federal requirement, (3) establish a range of gradual sanctions for use with states that have a problem complying with program requirements, and (4) explore alternatives to expand the trucking industry's active participation in the CDL program in order to develop a joint industry and government plan to address CMV operators who continue to operate during a disqualification period.

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\* The Commercial Driver License Effectiveness Study was prepared for the FHWA's Office of Motor Carrier by TML Information Services, Inc., Forest Hills, NY.



## **OFFICE OF MOTOR CARRIERS, REGION 3**

### **Commercial Driver Records Analysis and MCSAP Enforcement Issues**

The Federal Highway Administration Office of Motor Carriers issued Commercial Driver Records Analysis and MCSAP Enforcement Issues in June 1999. The study compared the driver information that can be obtained from the National Law Enforcement Telecommunications System (NLETS) and the CDLIS, and investigated a number of CDL program issues. This study follows an October 1996 report, which found that additional information could be found using NLETS. It documented that loss-of-privilege information not contained on driver records in licensing states could be accessed via NLETS from nonlicensing states.

According to the study, NLETS inquiries showed suspensions in nonlicensing jurisdictions that were not always shown in CDLIS checks or at the licensing jurisdiction. This occurred most commonly in suspensions of drivers who failed to pay the penalty specified on a citation or failed to appear in court. Factors contributing to the problem included: (1) no requirement for jurisdictions to transmit out-of-state withdrawal, suspension, or disqualification information via CDLIS; (2) an increasing tendency of motor vehicle administrators to restrict the exchange of driver related information, and (3) nonuniform status codes within NLETS. The study concluded that the process for transmitting convictions within states and between states and what licensing jurisdictions do with information they receive contribute to inconsistencies. The study also concluded that some licensing states may not receive timely notification of out-of-state violations.

The study recommended that Federal regulations be modified to require electronic conviction information within a minimum time. The report also recommended more Federal involvement in promoting harmony of traffic laws among jurisdictions and in standardizing commercial driver license status codes among jurisdictions.

## ***Exhibit F. Information on Masking and Special Licenses by State***

The table below provides information on masking and special licenses by state. We obtained information through on-site visits or data requests.

<b>Table F. Information on Masking and Special Licenses By State</b>		
<b>State</b>	<b>State had Masking, Deferral, or Diversion Programs for CDL Drivers</b>	<b>State Issued Special Use, Hardship, or Limited Use License for CDL Drivers</b>
Alabama	No	No
Alaska	Yes	No
Arizona	No	No
Arkansas	Yes	Yes
California	Yes	No
Colorado	No	No
Connecticut	Yes	Yes
Delaware	Yes	Yes (Note 6)*
District of Columbia	Yes	Yes (Note 7)
Florida	Yes (Note 1)	No
Georgia	Yes	No
Hawaii	No	Yes
Idaho	Yes	Yes (Note 8)
Illinois	Yes (Note 2)	Yes (Note 9)
Indiana	Yes	Yes
Iowa	Yes	Yes (Note 10)
Kansas	Yes	No
Kentucky	No	No
Louisiana	Yes (Note 3)	No
Maine	No	No
Maryland	Yes (Note 4)	No
Massachusetts	Yes	Yes
Michigan	No	No
Minnesota	No	Yes (Note 11)
Mississippi	No	No
Missouri	Yes	No

<b>Table F. Information on Masking and Special Licenses By State</b>		
<b>State</b>	<b>State had Masking, Deferral, or Diversion Programs for CDL Drivers</b>	<b>State Issued Special Use, Hardship, or Limited Use License for CDL Drivers</b>
Montana	Yes	No
Nebraska	No	No
Nevada	Yes	Yes
New Hampshire	Did not Respond	Did not Respond
New Jersey	No	No
New Mexico	Yes	No
New York	No	Yes (Note 12)
North Carolina	Yes	No
North Dakota	No	No
Ohio	No	Yes (Note 13)
Oklahoma	Yes	No
Oregon	Yes	Yes
Pennsylvania	Yes	Yes
Rhode Island	No	No
South Carolina	No	Yes
South Dakota	No	Yes
Tennessee	Yes (Note 5)	Yes (Note 14)
Texas	No	Yes (Note 15)
Utah	Yes	No
Vermont	No	No
Virginia	No	No
Washington	No	No
West Virginia	No	No
Wisconsin	No	Yes
Wyoming	No	Yes

\* See notes on separate page.

## **Masking, Deferral, or Diversion Programs Notes**

Note 1. Under the “adjudication withheld” program, the conviction goes on the record; but the driver is not assessed points. The presiding judge may require CMV drivers to attend driving school to avoid points but the conviction is not eliminated from the record and the driver still pays the fine and court costs.

Note 2. The state’s supervision program provides judges with sole authority to defer a conviction. However, the state cannot take any adverse action against the driver. The state licensing department requested but did not require the courts to report CMV violations deferred through the supervision program. In addition, the state did not maintain information nor statistics on the percentage of supervision deferrals actually reported.

Note 3. Effective August 15, 1999, masking is no longer applicable to CMV violations.

Note 4. The state allows “probation before judgment” at the discretion of the courts. By state statute, all probations before judgment must be reported to the licensing department.

Note 5. The state permits “probation before judgment” at the discretion of the courts. By state statute, probations before judgment are not required to be reported to the state-licensing department. In these cases, the traffic violation is not reported to the state-licensing department unless the driver commits another violation in that jurisdiction within a specified length of time. In addition, judges have authority to dismiss a citation if the driver completes a defensive driving course. These instances would also not be reported to the state-licensing department.

## **Special Use, Hardship or Limited Use License Notes**

Note 6. By state statute, the state may issue “work licenses” to CDL drivers only when the CDL was suspended or revoked for non-CDL disqualifying violations. Work licenses are not available for drivers disqualified for Federal violations.

Note 7. Licenses limited to drivers committing traffic violations in a personal vehicle or those committing non-Federal violations in a CMV, including failure to obey traffic signs.

Note 8. State statute allows courts to issue permits for driving a CMV following violations not occurring in a CMV, or for noncommercial privileges only if the violation was in a CMV. The State’s motor vehicle administration may issue permits for certain suspensions if violations were not committed in a CMV. If the violations were in a CMV, only noncommercial privileges would be issued.

Note 9. Special licenses and permits in the state are limited to drivers who have committed non-Federal violations in a CMV or drivers who have committed any violation in a personal vehicle.

Note 10. Special licenses or temporary restricted licenses are available to qualifying CDL holders who have had their privilege withdrawn for serious non-CDL violations.

Note 11. A limited license is issued to anyone who has not been disqualified from driving a CMV.

Note 12. A “Certificate of Relief from Disabilities” is issued to allow disqualified CDL holders to drive in a work-related capacity if the violation occurred in a non-CMV.

Note 13. Licenses are limited to drivers who have committed violations in a personal vehicle or non-Federal violation in a CMV.

Note 14. The state issues a restricted CDL to CMV drivers if the underlying violation was not committed in a CMV.

Note 15. An occupational license can be issued to drive both a personal vehicle and a CMV if the offense occurred in a personal vehicle. However, a person who is disqualified from operating a CMV may not be granted an occupational license to drive a CMV and would be limited to driving a personal vehicle. An administrative hearing is required before issuance of the occupational license.

# APPENDIX

## **Appendix. FMCSA Response**

*Below is the verbatim text from the June 21, 2000 Memorandum entitled: "FMCSA Response to the Office of Inspector General's (OIG) June 2000 Report on Disqualifying Commercial Drivers." The response was approved by Clyde J. Hart, Jr., Acting Deputy Administrator.*

We have reviewed the subject report and agree that there is need for corrective action. We appreciate the opportunity to provide our responses and planned actions. The Motor Carrier Safety Improvement Act of 1999 (the Act) provides the Secretary with new authorities to strengthen the Commercial Driver's License (CDL) program. This new authority will be helpful to the FMCSA in implementing the recommendations. Following are the actions we have taken or plan to take in response to each recommendation.

**Recommendation 1:** Require the states identified in this report to provide the Administrator with action plans containing milestones for implementing corrective action. Initiate sanctions if corrective actions are not taken within a reasonable time period.

**Response:** Concur. Each state identified in the OIG report will receive a letter outlining the problems discovered in their CDL programs as a result of the OIG's audit. The states will be required to submit a written detailed plan on how they intend to address the problems discovered. They will also be required to submit a timeline for corrective actions that is reasonable in relation to the amount and type of problems discovered. The states will be working with and monitored by the FMCSA's state director in their state. If problems discovered place the state in substantial noncompliance, and they are not addressed in a timely manner we will execute available sanctions.

**Recommendation 2:** Modify the current CDL program review process to include development of a manual for conducting on-site reviews that:

- (a) determine whether all conviction codes leading to disqualification are recognized by state systems;
- (b) ensure that state policies address all federal disqualifying violations;
- (c) ensure that electronic transmissions of conviction information is received by the licensing state,
- (d) ensure that all out-of-state violations are actually recorded; and
- (e) include operational testing on whether states are complying with the prohibition on masking and special licenses.

**Response:** Concur. Under a cooperative agreement we have with TML Information Services Inc., an expert in the area of DMV systems, they will participate as our systems experts on state CDL compliance reviews. TML has extensive knowledge of CDL issues both from a system side and a program side. TML was the contractor that produced the “Commercial Driver License Effectiveness Study” report published in December 1998. TML’s primary task during the state compliance process will be a complete check of the Commercial Driver’s License Information System (CDLIS). TML will perform a complete assessment of the system and determine whether the state is capable of performing all the transactions required under CDL regulation. The process used to check CDLIS already addresses (a),( b), (c), and those out-of-state convictions that are transmitted electronically in (d). Once the regulations prohibiting masking and the issuance of special licenses are published, an additional component will be added to the process to check compliance with these provisions. Some states still transmit convictions on paper. We will strongly encourage these states, both with financial and technical assistance, to implement an electronic format. These revised practices will be incorporated into the CDL training courses now being conducted.

**Recommendation 3:** Implement periodic training programs for personnel conducting CDL program reviews.

**Response:** Concur. We have developed a CDL state compliance training course. All field personnel responsible for CDL compliance in their state must attend before they can perform a CDL compliance review in their state. The purpose of the course is to provide FMCSA personnel with a fundamental understanding of the objectives of the state compliance review process, and provide the skills and knowledge necessary to perform a state CDL compliance review. The first class was held the week of May 8<sup>th</sup>. It was attended by 21 of our Division and Service Center personnel. We now have twelve states scheduled for compliance reviews within the next six months.

**Recommendation 4:** Develop and implement centralized monitoring capabilities through CDLIS for program oversight. As a minimum, changes should include:

a. Periodic sampling of convictions to--

(1) identify convictions for disqualifying violations that can be analyzed as a means of

identifying state systems with potential problems;

(2) quantify the median time required by states between conviction date and the transmission of conviction; and

(3) ensure the accuracy of recording convictions received through CDLIS.



b. Establishment of management reports that capture the types and quantity of convictions transmitted among states and compare this information to disqualification data obtained from the states.

**Response:** Concur. The CDLIS central site can be modified to achieve the recommendations outlined above. In addition to systems changes, AAMVAnet must be given the authority to access the state's databases via the CDLIS central site. At this time, AAMVAnet is prohibited from accessing state data by the Commercial Motor Vehicle Safety Act of 1986. The FMCSA will work with AAMVA and AAMVAnet to resolve this problem.

At the central site, new programs can be developed to analyze electronic transmissions of out-of-state convictions for disqualifying offenses, or offenses that, if repeated, would result in a disqualification. These offenses can then be captured and saved, along with identification information on the CDL holder. CDLIS can then automatically generate a state-to-state history request to the state of record. The history response from the state of record can be compared to the conviction information. The CDLIS central site can generate management reports documenting any instances where the convictions were not properly applied to the record, or where the status has not been properly changed to indicate the disqualification. These reports can then be used to contact the relevant state on a periodic basis to discuss the issue, determine the underlying problem, and establish a process to correct the problem.

Out-of-state convictions are the only convictions transmitted via the CDLIS central site and account for a small percentage of all convictions. A mechanism would need to be created to monitor all convictions via the central site. This may be a significant change for the states and requires analysis to determine the best technical solution to meet this requirement.

Each electronic out-of-state conviction contains three dates: citation date, conviction date, and the date the conviction was sent electronically. The convictions can be analyzed to determine the median time required by states between conviction date and the date of transmission of the electronic conviction by comparing these dates and producing a management report documenting the median time per state. The system can also analyze the median time between citation date and conviction date to determine the length of the judiciary process.

A detailed analysis will need to be performed to determine the best way to capture the data required to meet the recommendations as well as any requirements the FMCSA may have to assist in its own compliance reviews.

In addition, a detailed analysis of the effect of these changes on the CDLIS central site is necessary before an accurate estimate of time and cost can be made. It is expected that these changes will also require modifications to software used by

most states. It is also possible that the addition of AAMVAnet as an authorized user of the system may require programming changes to state databases to allow such access.

**Recommendation 5:** Implement the Motor Carrier Safety Improvement Act of 1999 provision that requires reporting disqualifications by specifically requiring the states to report applicable disqualifications with the associated convictions. These disqualification records must be electronically retrievable and used for federal oversight to improve effectiveness of the CDL program.

**Response:** Concur. AAMVAnet, the CDLIS central site operator, has added the tasks of implementing the changes required by the Motor Carrier Safety Improvement Act of 1999 as well as the suggestions from the DOT IG report to its Strategic Plan and budget for FY01 and beyond.

While this requirement is technically feasible, it will require significant changes to the state's databases, programs, and interfaces. It will likely require modifications to the protocol used for CDLIS (AAMVAnet Message Interchange Envelope), changes to the UNI software, and programming changes at the CDLIS central site. Significant analysis of the impact of this requirement on the state systems is required before an accurate estimate of time and cost can be made. The FMCSA will review this analysis to determine whether federal funding for the states will be required before this recommendation can be fully implemented.

**Recommendation 6:** Impose available sanctions on noncompliant states when corrective actions are not taken based on oversight review results or if the state fails to correct a certification exemption in a timely manner.

**Response:** Concur. The FMCSA will use all sanctions provided in both the Commercial Motor Vehicle Safety Act of 1986 and the Motor Carrier Safety Improvement Act of 1999 if a state is found to be in substantial noncompliance with any of the provisions of CFR 49 Part 384.

**Recommendation 7:** Establish a management report to monitor implementation by each state of provisions of the Motor Carrier Safety Improvement Act of 1999 that prohibit masking and the issuance of special licenses.

**Response:** The FMCSA will develop a monitoring mechanism to track each state's implementation of the provisions in Section 202(g) – Requirements for states (No Conviction Masking) of the Motor Carrier Safety Act of 1999. The FMCSA state directors, who have this primary oversight of the CDL program, will track, monitor, and report the state's implementation of all provisions of the Act.