

## **Modifications to May 9, 2011 CDL Testing and CLP Standards Final Rule**

On April 9, 2008, the Federal Motor Carrier Safety Administration (FMCSA) issued a notice of proposed rulemaking (NPRM) to amend the commercial driver's license (CDL) knowledge and skills testing standards and establish new minimum Federal standards for States to issue the commercial learner's permit (CLP) (73 FR 19282). On May 9, 2011, FMCSA issued a final rule implementing these changes. In response to this final rule, the Agency received 34 petitions for reconsideration that covered a wide range of issues. The petitions were from State driver licensing and law enforcement agencies, associations, driver training schools, motor carriers, and individuals. After careful review, FMCSA decided to grant some petitions, in whole or in part, and deny others. As a result, FMCSA is publishing today's final rule modifying seven provisions of the May 2011 final rule. The grant and denial orders are available in this rulemaking docket.

- The FMCSA amended the exception to checking for legal presence and domicile as it applies to initial issuance of CLPs and the renewal of CDLs. Originally, the exception did not appear in the regulatory text. In addition, the Agency did not specify whether the exception applies to upgrades of CDLs. FMCSA has clarified that the exception covers all transactions, whether initial issuance, transfer, renewal, or upgrade, made after July 8, 2011.
- The FMCSA amended the current regulation to only require two people to be substantively involved in the license issuance process, but not require that two people verify each document. For example, one person might review the legal presence and other documentation the driver presents, while a second SDLA employee would conduct the required driving record check for driving violations and issue the license.
- The Agency amended the current regulation to allow CDL driver training schools that are also a third party skills tester to skills test their own student applicants only if an individual examiner does not administer the skills test to drivers he or she skills trained.
- The FMCSA eliminated the retesting bond requirement for third party skills testers who are also governmental entities.
- The Agency removed the prohibition on having a photograph on the CLP and leaves the determination up to the State whether to include a photograph on the CLP. The May 2011 final rule prohibited photos on the CLP.
- The FMCSA removed the requirement for States to do criminal background checks on an annual basis, but requires States to perform the criminal background checks on knowledge and skills test examiners only at the time of hiring and once on existing examiners. The May 2011 final rule required annual background checks.
- The Agency extended the compliance date for States to implement and enforce the changes in the May 9, 2011, and today's final rule by one year, to July 8, 2015.
- The FMCSA also adopted several technical corrections discovered in the May 9, 2011 final rule in this final rule.
- FMCSA agreed that annual background checks for knowledge and skills test examiners as described in 49 CFR 384.228(h) were unnecessary. FMCSA amends this section to require background checks on test examiners only at the time of hiring. This will

produce a total cost saving of \$214,400<sup>1</sup> per year, after conducting an initial background check. This represents the only quantifiable cost savings of the rule, but other provisions will result in unquantifiable benefits.

- FMCSA believes the changes made by today's final rule reduce the burdens on SDLA and lessen the barriers to a person becoming a CMV driver.

---

<sup>1</sup> OMB Control No. 2126-0011 titled, "Commercial Driver Licensing and Test Standards." May 1, 2012, pp. 22-23. This amount is calculated by multiplying 2,144 skills test examiners x \$100/per FBI background check = \$214,400.