



U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF INSPECTOR GENERAL

**FMCSA Has Gaps and Challenges
in Its Oversight of CDL
Disqualification Regulations**

FMCSA

Report No. ST2021030

July 14, 2021





FMCSA Has Gaps and Challenges in Its Oversight of CDL Disqualification Regulations

Self-Initiated

Federal Motor Carrier Safety Administration | ST2021030 | July 14, 2021

What We Looked At

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving large trucks and buses. To that end, FMCSA regulates commercial driver's license (CDL) holders involved in interstate commerce and the transportation of hazardous materials. In the last 5 years, fatalities in crashes involving large trucks or buses increased by 12.4 percent, from 4,505 in 2014 to 5,064 in 2019. Federal regulations describe the minimum standards States must meet to comply with the Federal CDL program and permits FMCSA to review each State CDL program to determine compliance. Accordingly, the objective for this self-initiated audit was to assess FMCSA's oversight of States' actions to disqualify commercial drivers when warranted.

What We Found

States did not timely transmit electronic conviction notifications 17 percent of the time. Specifically, we estimate that States of Conviction did not timely transmit 18 percent of 2,182 major offenses and 17 percent of 23,628 serious traffic violations in our universe. We also estimate that 11 percent of 2,182 major offenses were not timely posted and 2 percent of 23,628 serious traffic violations in our universe were not posted to driver records at all. While States did take action to disqualify CDLs when appropriate, with exceptions, FMCSA's evaluation of paper conviction notifications is limited by States' processes for recording and tracking convictions sent by mail. Furthermore, FMCSA's Annual Program Review process lacks adequate quality control measures for verifying that State CDL programs meet Federal requirements. Finally, State noncompliance with Federal CDL disqualification requirements and other State actions pose challenges for FMCSA's oversight. For example, some States offered administrative appeals to out-of-State drivers, overturned disqualifications, and backdated CDL disqualification periods. As a result, some drivers served shorter disqualification time periods than Federal law requires.

Our Recommendations

We made seven recommendations to strengthen FMCSA's oversight of States' actions to comply with Federal CDL disqualification requirements. FMCSA concurred with all seven recommendations, which we consider resolved but open pending completion of the planned actions.

Contents

Memorandum	1
Background	3
Results in Brief	4
States Did Not Timely Transmit Electronic Conviction Notifications 17 Percent of the Time	7
FMCSA's Evaluation of Paper Conviction Notifications Is Limited by States' Processes for Recording and Tracking Mailed Convictions and Maintaining Paper Conviction Logs	13
FMCSA's APR Process Lacks Adequate Standard Operating Procedures and Other Quality Control Measures for Verifying That State CDL Programs Meet Federal Requirements	18
State Noncompliance With Federal CDL Disqualification Requirements and Other State Actions Pose Challenges for FMCSA's Oversight	23
Conclusion	29
Recommendations	30
Agency Comments and OIG Response	31
Actions Required	31
Exhibit A. Scope and Methodology	32
Exhibit B. Organizations Visited or Contacted	35
Exhibit C. List of Acronyms	38
Exhibit D. How SDLAs Use CDLIS	39
Exhibit E. Disqualifications for Major Offenses	40
Exhibit F1. Disqualifications for Serious Traffic Violations	42
Exhibit F2. Disqualifications for Railroad Highway Grade Crossing Offenses	44
Exhibit F3. Disqualifications for Out-of-Service Orders	45


Exhibit G. Delays in Conviction Notification Findings by State—Major Offenses	46
Exhibit H. Delays in Conviction Notification Findings by State—Serious Traffic Violations	47
Exhibit I. Delays or Errors in Conviction Posting Findings by State—Major Offenses	49
Exhibit J. Delays or Errors in Conviction Posting Findings by State—Serious Traffic Violations	50
Exhibit K. Major Contributors to This Report	52
Appendix. Agency Comments	53



Memorandum

Date: July 14, 2021

Subject: ACTION: FMCSA Has Gaps and Challenges in Its Oversight of CDL Disqualification Regulations | Report No. ST2021030

From: David Pouliott 
Assistant Inspector General for Surface Transportation Audits

To: Federal Motor Carrier Safety Administrator

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving large trucks and buses. FMCSA regulates drivers operating commercial motor vehicles in interstate commerce and transporting hazardous materials. In 2018, there were approximately 4.9 million commercial driver's license (CDL) holders in the United States.¹ In the last 5 years, fatalities in crashes involving large trucks or buses increased by 12.4 percent, from 4,505 in 2014 to 5,064 in 2019.²

On June 21, 2019, a commercial driver licensed in Massachusetts killed seven motorcyclists in New Hampshire, less than 6 weeks after the State of Connecticut suspended his driving privileges for refusing to take a chemical drug test. A subsequent internal investigation conducted by the Massachusetts Registry of Motor Vehicles (RMV) concluded the driver's CDL would have been revoked before the crash if RMV had followed its own procedures for processing out-of-State driver notifications.³ Furthermore, RMV was not systematically processing paper notifications it received from other States. This tragic incident illustrates the importance of timeliness in processing driver convictions.

Title 49, Code of Federal Regulations (CFR), Part 384, subpart B, describes minimum standards States must meet to be in substantial compliance with the Federal CDL program. For example, States must notify other States about convictions within 10 days.⁴ States risk losing up to 4 percent of Federal-aid

¹ FMCSA, *2020 Pocket Guide to Large Truck and Bus Statistics*, October 29, 2020.

² FMCSA data as of December 31, 2020. States are expected to report crash data to FMCSA within 90 days of the crash. Data are considered preliminary for 22 months to allow for changes.

³ Grant Thornton LLP, Final Report on Commonwealth of Massachusetts—Registry of Motor Vehicles, October 4, 2019

⁴ Title 49, Code of Federal Regulations (CFR), section 384.209(c).

highway funds following the first year of noncompliance with CDL program requirements and up to 8 percent in subsequent years.⁵ Part 384.307(a) permits FMCSA to conduct a review of each State CDL program to determine whether it substantially complies with Federal regulations.⁶

Accordingly, the objective for this self-initiated audit was to assess FMCSA's oversight of States' actions to disqualify commercial drivers when warranted. Specifically, we identified risks and challenges associated with (1) States' timeliness in processing electronic notifications of driver convictions, (2) State's processing of paper-based CDL conviction notifications transmitted by mail, (3) FMCSA's processes for reviewing State CDL programs, and (4) States' actions affecting FMCSA's oversight.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology, exhibit B lists the entities we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-1844 or Kerry R. Barras, Program Director, at (817) 978-3318.

cc: The Secretary
DOT Audit Liaison, M-1
FMCSA Audit Liaison, MCPRS

⁵ 49 CFR § 384.401(a) and (b).

⁶ 49 CFR § 384.301(a) states that to be in substantial compliance with Title 49 of the U.S. Code (U.S.C.) § 31311(a), a State must meet each and every standard of subpart B by means of the demonstrable combined effect of its statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments, and enforcement practices.

Background

To operate a commercial vehicle in the United States, drivers are required to have a CDL or commercial learner's permit (CLP) in good standing issued by the State driver licensing agency (SDLA) where the individual is licensed. The Commercial Motor Vehicle Safety Act of 1986⁷ establishes a framework for disqualifying the CDLs of unsafe drivers. Since a commercial driver over the age of 21 may operate a commercial vehicle throughout the United States, this law requires States to exchange traffic conviction information on commercial drivers through a nationwide system and establishes mandatory penalties for disqualifying traffic convictions.

The American Association of Motor Vehicle Administrators (AAMVA)⁸ maintains the Commercial Driver's License Information System (CDLIS), a nationwide computer system that enables SDLAs to ensure that each commercial driver has only one driver's license and one complete driver record. CDLIS is composed of (1) a distributed database that stores information about commercial drivers and (2) the associated hardware and software used to manage commercial driver information, including unique Master Pointer Records for each driver. Each SDLA houses a detailed driver record on each driver it licenses, such as identification and license information and a history of convictions and disqualifications. States use CDLIS to electronically report traffic convictions of holders of CDLs and CLPs. The State issuing the traffic conviction (State of Conviction) uses CDLIS to notify the State where the driver is licensed (State of Record). States may also mail paper notifications of convictions. In either case, under Federal requirements, States of Conviction have 10 days to send a traffic conviction notification to the State of Record, which in turn has 10 days to process the conviction and post it to the driver's record. Exhibit D presents the process of transmitting an electronic conviction from the State of Conviction to the State of Record.

States must disqualify⁹ the CDLs of drivers convicted of major offenses and serious traffic violations and other offenses as expeditiously as possible.¹⁰ Major offenses warranting disqualification include convictions for driving under the influence of alcohol or committing a felony with a motor vehicle. Serious traffic violations, such as excessive speeding or reckless driving, require

⁷ Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570 (1986) (codified at 49 U.S.C. § 31301 et seq.).

⁸ AAMVA is a nonprofit organization that represents the State, provincial, and territorial officials in the United States and Canada who administer and enforce motor vehicle laws.

⁹ AAMVA's CDLIS State Procedures Manual uses the term *withdrawal* to describe the act of taking away a CDL holder's driving privileges. According to FMCSA, the terms *disqualification* and *withdrawal* can be used interchangeably. Since *disqualification* is cited in Federal law, we primarily use that term in this report.

¹⁰ 49 CFR § 384.231(c).

disqualification if the second offense occurs within 3 years of the first. In addition, drivers must be disqualified the first time they are convicted of violating out-of-service orders¹¹ or railroad grade crossing regulations while operating a commercial vehicle. Tables of potential disqualification offenses and periods for drivers required to have CDLs or CLPs are listed in 49 CFR § 383.51, as shown in exhibits E and F1–F3.

FMCSA maintains the Federal Convictions and Withdrawal Database (FCWD) of U.S. conviction histories of drivers who hold foreign CDLs. States transmit convictions for offenses covered by 49 CFR § 383.51 to the FCWD.

As part of its oversight, FMCSA established its Annual Program Review (APR) process to verify that State CDL programs meet Federal requirements for substantial compliance.¹² This process includes a review of compliance with 49 CFR Part 384; validation of a State's annual CDL certification; completion of a CDL skills testing review; and evaluation and update of a State's corrective action plan, if appropriate. FMCSA evaluators use a checklist to guide completion of the APRs. According to FMCSA officials, the Agency's State Compliance Records Enterprise (SCORE) system tracks APR-identified compliance issues and State corrective action plans and also stores related documents.

Results in Brief

States did not timely transmit electronic conviction notifications 17 percent of the time.

In fiscal year 2019, States of Conviction frequently transmitted electronic notifications of driver convictions to States of Record within the 10-day Federal requirement. However, based on our nationwide sample findings, we estimate that States of Conviction did not timely transmit 18 percent of 2,182 major offenses and 17 percent of 23,628 serious traffic violations in our universe. Once a notification was received, States of Record frequently posted CDLIS-transmitted convictions to individual driver records within the 10-day Federal requirement. However, based on our nationwide sample findings, we estimate that 11 percent of 2,182 major offenses were not timely posted and 2 percent of 23,628 serious traffic violations in our universe were not posted to driver records at all. We also found that States took action to disqualify CDLs when appropriate, with exceptions. Based on our sample findings, we estimate that 2 percent of the 2,182 CDL holders in our universe of major offenses were not disqualified for the

¹¹ As defined in 49 CFR § 383.5.

¹² 49 CFR Part 384, subpart C.

correct time period. Even small gaps in timeliness can increase the potential safety risks to the driving public.

FMCSA's evaluation of paper conviction notifications is limited by States' processes for recording and tracking mailed convictions and maintaining paper conviction logs.

SDLA responses to our questionnaire indicated that 34 SDLAs received paper conviction notifications by mail, and 3 SDLAs received paper notifications 50 percent or more of the time. We attempted to evaluate States' timeliness in processing fiscal year 2019 paper notifications, but only 17 of 50 States provided us with the FMCSA-required paper logs, a key control in tracking paper notifications, and 7 States and the District of Columbia reported they did not maintain the logs.¹³ The incomplete paper logs limited our evaluation on how well States processed paper notifications and, likewise, may limit FMCSA's ability to evaluate State CDL program performance. Additionally, based on our limited evaluation of conviction notifications transmitted by mail,¹⁴ States of Conviction transmitted data on 5 of 11 major offenses and 2 of 5 serious traffic violations after the 10-day requirement. States of Record posted 6 of 11 major offenses and 1 of 5 serious traffic violations to driver records after the 10-day requirement. Two separate convictions transmitted by mail, one major offense and one serious traffic violation, were never posted to the driver records, and one State did not apply a CDL disqualification related to a paper conviction notification. These gaps in paper-based conviction oversight increase the safety risks to the driving public. Furthermore, States are sending duplicate records of previous electronic transmissions of conviction data, contrary to requirements to only send either electronically via CDLIS or by mail. Our analysis of 66 paper records found that 36 were duplicate records. Processing duplicate records increases the likelihood of errors, as well as the potential that duplicate convictions may be added to driver records.

¹³ FMCSA's Exclusive Electronic Exchange Final Rule, when complete, will eliminate States' transmission of paper-based convictions by mail. FMCSA was noncommittal on the completion date for the rulemaking.

¹⁴ We used the State-provided logs of conviction notifications mailed in fiscal year 2019 to compile a universe of convictions transmitted by mail. From that universe, we generated a statistical sample of 58 major offenses and 8 serious traffic violation notifications, which included non-CDL holder convictions, duplicate electronic transmissions, and items sent in error. Railroad Grade Crossing and Out-of-Service Orders convictions were also included in the major convictions population as first convictions for these violations also require disqualification from operating a commercial motor vehicle. We limited our evaluation to convictions neither duplicated nor sent in error—11 major offenses and 5 serious traffic violations. Because of these challenges, we are reporting sample results without projection to the universe.

FMCSA's APR process lacks adequate standard operating procedures and other quality control measures for verifying that State CDL programs meet Federal requirements.

FMCSA's APR process did not include key quality control measures, such as an adequate standard operating procedure, for conducting the reviews. Additionally, FMCSA did not ensure that its evaluators consistently used the current Agency-provided checklist, which neither included the quality control issues we identified nor prompted evaluators to review key factors that impact CDL disqualification. For example, although the checklist instructed reviewers to determine if a State sent paper notifications of convictions to other States timely, it did not ask reviewers to evaluate or test the State's processing of paper notifications received from other States. Additionally, the checklist instructed reviewers to assert whether or not the State was posting in-State convictions to driver records within 10 days but did not ask reviewers to test any part of the State's processing of in-State convictions. While FMCSA updated the checklist for 2020 APRs to expand the review for certain evaluation areas and required its use, the 2020 checklist did not require a FMCSA official to sign the review, a key quality control measure for acknowledging accountability. Furthermore, FMCSA did not have an adequate standard operating procedure to ensure that States timely address specific compliance issues, and its information system for tracking these issues was not user-friendly. These gaps in controls increase the risk that States may not adequately address a compliance issue for multiple years. In addition, FMCSA's information system, SCORE, makes it difficult for States to track compliance issues and limits FMCSA's ability to communicate related information on those issues to the States. As a result, FMCSA may not always ensure that States are taking timely actions to mitigate the compliance issues.

State noncompliance with Federal CDL disqualification requirements and other State actions pose challenges for FMCSA's oversight.

Federal regulations¹⁵ require States to disqualify CDL holders convicted of specific violations, such as driving under the influence of drugs or alcohol, or using a vehicle to commit a felony. While FMCSA considers processes adjudicated by the States to be final, States of Record offered administrative appeals to out-of-State drivers, overturned disqualifications, and backdated CDL disqualification periods. As a result, some drivers served shorter disqualification time periods than Federal law requires. FMCSA's oversight of States' compliance with Federal CDL regulations is weakened by these State actions, as well as transmissions of non-CDL convictions via CDLIS and conviction-masking actions. FMCSA may face

¹⁵ 49 CFR § 383.51, table 1.

an additional challenge when States implement new software systems to manage driver records and other CDL data. Finally, States could encounter delays in complying with Federal CDL requirements due to the Coronavirus Disease 2019 (COVID-19) global pandemic. Based on these observations, FMCSA may face challenges verifying that States are complying with these requirements.

We are making recommendations to strengthen FMCSA's oversight of States' actions to comply with Federal CDL disqualification requirements.

States Did Not Timely Transmit Electronic Conviction Notifications 17 Percent of the Time

States of Conviction did not timely transmit electronic conviction notifications 17 percent of the time. States of Record timely updated driver records and applied CDL disqualifications when warranted, except for 2 percent of the time.

States Timely Transmitted and Posted Electronic Notifications of Convictions, With Exceptions

States of Conviction met Federal requirements for sending electronic notifications of traffic convictions, but delays occurred about 17 percent of the time. States of Record timely posted those convictions to driver records, with delays occurring only 7 percent of the time.

States Promptly Transmitted Most Electronic Notifications of CDL Convictions, With Exceptions

In fiscal year 2019, States of Conviction transmitted most electronic notifications to States of Record in a timely manner via CDLIS. However, we estimate about 17 percent of these notifications were transmitted after the 10-day requirement. Federal regulations¹⁶ state that whenever a CDL holder from another State is convicted of violating any State or local traffic control law, in any type of vehicle, the licensing entity of the State in which the conviction occurs must notify the licensing entity in the State where the driver is licensed within 10 days of the conviction. Figure 1 shows the entire process for CDLIS-transmitted convictions from citation through disqualification.

¹⁶ 49 CFR § 384.209(a), (c).

Figure 1. Disqualification Process for Conviction Notifications Transmitted Electronically Through CDLIS



Note: Federal regulations require States of Conviction to transmit the conviction within 10 days and States of Record to post the conviction within 10 days. Other timeframes are presented for information purposes only.

DHR = driver history record.

*Average total days to disqualification excludes sample items with an effective disqualification start date recorded prior to the date the notification was received by the State of Record.

Source: OIG analysis

We analyzed a nationwide statistical sample of 103 CDLIS-transmitted convictions,¹⁷ including 44 major offenses. We found 8 (18 percent) of the 44 convictions were not transmitted within the 10-day requirement. The 8 convictions represent 6 of 21 States in our sample (see exhibit G).

Table 1 shows the eight major offenses in our sample with delays in electronic notifications to States of Record. These delays ranged from 1 to 565 days. The most egregious example involved a driver who was convicted, on December 18, 2017, of driving under the influence of alcohol. The State of Conviction did not notify the State of Record until July 16, 2019—565 days beyond the 10-day requirement. According to State officials, the delay was due to a backlog in processing paper conviction notifications by State courts, and they have created an electronic interface with the courts to speed up the process.

¹⁷ Our original sample of 134 electronic convictions included 103 convictions of CDL or CLP holders. The remaining 31 traffic convictions applied to non-CDL/CLP holders.

Based on our sample findings, we estimate that 397¹⁸ of the approximately 2,182 major offenses in our nationwide universe were not transmitted to the driver's State of Record in a timely manner during fiscal year 2019.

Table 1. Delays in Transmitting Major Offense Notifications Via CDLIS

State of Conviction	Major Offense ACD/Description	Conviction Date	Date Conviction Sent	Days in Excess of 10-Day Requirement
NH	A20/Driving or operating a motor vehicle under influence of alcohol or drugs	12/18/2017	7/16/2019	565
NH	B26/Driving or operating a motor vehicle while license suspended	4/5/2018	1/11/2019	271
CA	A08/Driving or operating a motor vehicle under the influence of alcohol at or over .08 blood alcohol content	11/16/2018	2/7/2019	73
TX	B20/Driving or operating a motor vehicle while license withdrawn	11/12/2018	12/20/2018	28
NH	B26/Driving or operating a motor vehicle while license suspended	5/23/2019	6/6/2019	4
MN	A98/Administrative Per Se for Blood Alcohol Content at or over .08	10/28/2018	11/8/2018	1
PA	B24/Driving or operating a motor vehicle while license disqualified	5/13/2019	5/24/2019	1
IN	A12/Refused to submit to test for alcohol—Implied Consent Law	9/13/2019	9/24/2019	1

Note: ACD stands for AAMVA Code Dictionary, which is a set of codes used nationwide to identify either (1) the type of conviction or (2) the reason for a disqualification in messages sent over AAMVA's secure computer network.

Source: OIG analysis; some descriptions truncated due to space limitations

In addition to major offenses, our nationwide statistical sample of 103 CDLIS-transmitted convictions included 59 serious traffic violations. We found that States did not send electronic notifications for 10 (17 percent) of the 59 serious traffic violations within the 10-day requirement. These 10 convictions represent 10 of 32 States in our sample (see exhibit H).

Table 2 lists the 10 serious traffic violations in our sample with delays in electronic notifications to States of Record. Delays in serious traffic violation notifications

¹⁸ Our 397 estimate has a precision of +/- 216 (+/-9.9 percent) of the estimated 2,182 major offenses of CDL holders in our universe at the 90-percent confidence level so that our confidence limits range from 181 to 613 (8.3 to 28.1 percent).

ranged from 3 to 379 days. One example involved a driver who was convicted, on May 22, 2019, for speeding 20 miles per hour over the speed limit. The State of Conviction did not notify the State of Record until June 14, 2019—13 days beyond the 10-day requirement. According to State officials, this occurred due to a delay in receiving the conviction from a court.

Based on our sample findings, we estimate that notifications for 4,005¹⁹ of the approximately 23,628 serious traffic violations in our nationwide universe were not timely transmitted in fiscal year 2019.

Table 2. Delays in Transmitting Serious Traffic Violation Notifications Via CDLIS

State of Conviction	Serious Traffic Violation ACD/Description	Conviction Date	Date Conviction Sent	Days in Excess of 10-Day Requirement
WY	M42/Improper or erratic lane changes	06/25/2018	07/19/2019	379
TN	M85/Texting while operating or driving a commercial motor vehicle (CMV)	06/18/2018	03/05/2019	250
CA	B57/Driving or operating a CMV without a CLP or CDL in the driver's possession	03/28/2019	07/30/2019	114
GA	M86/Using a hand-held mobile device while driving or operating a motor vehicle	11/08/2018	12/20/2018	32
WA	S16/Speeding 16–20 mph over the limit	09/13/2018	10/21/2018	28
MN	M86/Using a hand-held mobile device while driving or operating a motor vehicle	06/05/2019	07/03/2019	18
NV	S92/Speeding	05/22/2019	6/14/2019	13
LA	S92/Speeding	08/05/2019	08/20/2019	5
NM	S92/Speeding	02/22/2019	03/08/2019	4
PA	M42/Improper or erratic lane changes	10/10/2018	10/23/2018	3

Source: OIG analysis; some descriptions truncated due to space limitations.

According to some State officials, delays in notifying States of Record were caused by either extended SDLA processing times or court processing delays. Without timely notifications, States of Record cannot timely disqualify the CDLs

¹⁹ Our 4,005 estimate has a precision of +/- 1,933 (+/-8.2 percent) of the estimated 23,628 serious traffic violations of CDL holders in our universe at the 90-percent confidence level so that our confidence limits range from 2,071 to 5,938 (8.8 to 25.1 percent).

of unsafe drivers, who will remain on the road and pose an increased danger to the public.

States Posted Most Driver Records With CDLIS-Transmitted Conviction Data in a Timely Manner, With Exceptions

States timely posted most CDLIS-transmitted conviction data to driver records, but significant delays did occur for about 7 percent of the convictions. Federal regulations²⁰ require States to make conviction information available by posting it to driver records. The posting must occur no more than 10 days after States receive information about convictions or disqualifications from another jurisdiction.

We found 38 (86 percent) of 44 major offenses in our sample were posted within the 10-day requirement. We identified one major offense that was never posted to the driver's record and five major offenses posted after the 10-day requirement. These 6 convictions represent 5 of 27 States in our sample of major offenses (see exhibit I). Based on our sample findings, we estimate that 248²¹ of the approximately 2,182 major offenses in our nationwide universe in fiscal year 2019 were not timely posted to driver records, and we estimate that 50²² were never posted. For example, a driver was convicted of refusing to submit to an alcohol test on August 11, 2019. The conviction notification was sent on August 12, 2019, but the State did not update the driver record until September 12, 2019—21 days beyond the requirement.

We found 58 (98 percent) of 59 serious traffic violations in our sample were posted to driver records timely (see exhibit J). The other conviction, which represents 2 percent of our sample, was never recorded. Based on our sample findings, we estimate that electronic notifications of 400²³ serious traffic violations in fiscal year 2019 were not recorded on driver records. Even small gaps in timeliness can increase the potential safety risks to the driving public.

²⁰ 49 CFR § 384.225(a) & (c)(1).

²¹ Our 248 estimate has a precision of +/- 175 (+/-8.0 percent) of the estimated 2,182 major offenses of CDL holders in our universe at the 90-percent confidence level so that our confidence limits range from 73 to 423 (3.3 to 19.4 percent).

²² Our 50 estimate has a 100-percent lower confidence level of -49 (-2.2 percent) and a 90-percent upper confidence level of 80 (+3.7 percent) of the estimated 2,182 major offenses of CDL holders in our universe so that our confidence limits range from 1 to 130 (0.00046 to 6 percent).

²³ Our 400 estimate has a 100-percent lower confidence level of -399 (-1.7 percent) and a 90-percent upper confidence level of 1,057 (+4.5 percent) of the estimated 23,628 serious traffic violations of CDL holders in our universe so that our confidence limits range from 1 to 1,058 (0.000042 to 4.5 percent).

With Limited Exceptions, States Applied Disqualifications When Warranted

Our sample analysis of 2019 electronically transmitted convictions found that States disqualified CDLs when appropriate, with exceptions. Federal regulations²⁴ state that a CDL holder with a major offense must be disqualified from operating a commercial vehicle for at least 1 year.

One State did not impose the appropriate disqualification period for a CDLIS-transmitted major offense in our sample. Specifically, Minnesota convicted an individual from Oklahoma of driving under the influence of alcohol. Oklahoma updated the driver record, but a data-entry error reduced the disqualification period from 1 year to about 5.5 months. This example represents 2 percent of our sample of 44 major offenses. Based on our sample findings, we estimate that 50²⁵ of the approximately 2,182 CDL holders in our nationwide universe of major offenses were not disqualified for the appropriate time period. If drivers are not disqualified when warranted, the risk to the driving public is increased.

²⁴ 49 CFR § 383.51(b). Please see exhibit F for the full table of penalties for disqualifying offenses.

²⁵ Our 50 estimate has a 100-percent lower confidence level of -49 (-2.2 percent) and a 90-percent upper confidence level of 80 (+3.7 percent) of the estimated 2,182 major offenses of CDL holders in our universe so that our confidence limits range from 1 to 130 (0.00042 to 6 percent).

FMCSA's Evaluation of Paper Conviction Notifications Is Limited by States' Processes for Recording and Tracking Mailed Convictions and Maintaining Paper Conviction Logs

Incomplete State logs of mailed conviction notifications limit FMCSA's oversight, and States are duplicating conviction notifications. States also did not always timely transmit or post paper-based conviction notifications sent by mail.

Incomplete State Logs of Mailed Conviction Notifications Limit FMCSA's Oversight, and States Are Duplicating Conviction Notifications

States did not maintain complete logs of conviction notifications transmitted by mail. In addition, paper notifications we examined were associated with records that duplicated those States previously sent electronically.

Federal regulations require States to comply with the CDLIS State Procedures Manual.²⁶ The manual requires States to maintain the driver records in CDLIS, including identification data FMCSA needs to implement and enforce the CDL disqualification provisions. It requires States of Conviction to transmit conviction data to States of Record either electronically via CDLIS or by mail, but not both.

FMCSA and AAMVA strongly encourage jurisdictions to send and receive all conviction transactions and withdrawal transactions via CDLIS. However, if a jurisdiction cannot transmit a conviction or withdrawal report electronically or the State of Record cannot receive, post, or confirm the conviction, it must mail the information to the State of Record. Furthermore, the jurisdiction sending paper conviction reports must permanently retain a log of the mailed information that is equivalent to the CDLIS log.

²⁶ The State Procedures Manual (Rel. 5.3.2.1) is incorporated by reference in 49 CFR 384.107(b) (1) but only for 49 CFR § 384.225(f) and 49 CFR § 384.231(d).

Only 17 of 50 States provided us with the required paper logs. Seven States and the District of Columbia responded on our questionnaire that they do not maintain logs of the paper notifications they send to other States.

Based on the 37 responses to our questionnaire, SDLAs received an estimated total of 47,625 paper notifications during fiscal year 2019.²⁷ Additionally, 32 SDLAs provided estimates of the percentage of out-of-State convictions they received on paper (see table 3). The responses demonstrate that SDLAs still send records via mail, and for some SDLAs, paper-based records represent a large percentage of their CDL conviction notifications.

Table 3. SDLA Estimate of Percent of Conviction Notifications Received on Paper

Percentages	Number of SDLA Responses
0 percent	1
1–10 percent	14
10–25 percent	6
25–50 percent	8
50–100 percent	3
Total	32

Source: OIG analysis of SDLA questionnaire responses

According to FMCSA, and supported by the results from our questionnaire, some States are not maintaining logs of paper notifications as required. FMCSA officials added that the Agency cannot adequately track paper notifications unless States record the transactions in such logs. Due to the lack of quality recordkeeping associated with paper logs, notifications by mail present a higher risk that States may fail to hold drivers accountable for disqualifying convictions and limit FMCSA's ability to verify that States are properly disqualifying drivers.

Furthermore, our analysis of 66 paper records associated with conviction notifications found 36 (55 percent) were duplicate records of conviction data previously transmitted electronically. In these cases, the paper notifications arrived after the State of Record had posted the data from the electronic transmission. States that send both paper and electronic notifications increase

²⁷ Only includes questionnaire responses that provided whole number estimates, with the exception of one State.

the likelihood of errors, as well as the potential that duplicate convictions will be added to driver records.

FMCSA's Exclusive Electronic Exchange Final Rule, when complete, will eliminate States' transmission of paper-based convictions by mail.²⁸ In the interim, FMCSA established a supplemental process for its 2019 APRs to analyze States' processing of paper-based conviction notifications. The supplemental process resulted in 25 paper-processing-related findings from 20 States during the 2019 APR period. Although this process was not mandatory during the 2019 APR review process, FMCSA made it a requirement in the 2020 APR policy memo.

Conviction Notifications Transmitted by Mail Were Not Always Timely

States did not always transmit or post paper-based conviction notifications sent via mail in a timely manner. Due to the challenges associated with incomplete paper logs and duplicate transmissions described above, our analysis of a sample of paper-based transactions was limited, and we are reporting the results of our analysis without projection to the universe.

States of Conviction Did Not Always Timely Transmit Paper Notifications of CDL Convictions to States of Record

In fiscal year 2019, States of Conviction did not always timely transmit paper-based notifications to States of Record. Federal regulations²⁹ state that when a CDL holder from another State is convicted of violating a traffic control law, in any type of vehicle, the State of Conviction must notify the State of Record within 10 days of the conviction.

Based on the sample of paper-based notifications we reviewed,³⁰ States transmitted data on 5 of 11 major offenses and 2 of 5 serious traffic violations after 10 days. For example, a driver was convicted for making improper or erratic

²⁸ This final rule, when complete, will align the CDL regulations with §§ 32305(a)(1) and 32305(b)(1)(B) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141 (2012), which mandates that States implement a system and practices for the exclusive electronic exchange of driver history record information through CDLIS. FMCSA was noncommittal on the completion date for the rulemaking.

²⁹ 49 CFR 384.209(a), (c).

³⁰ We generated an incomplete universe of paper-based transactions in fiscal year 2019 using State-provided logs of conviction notifications. Some States did not provide logs. From that universe, we generated a sample of 58 major offense and 8 serious traffic violation notifications, which included non-CDL holders, duplicate electronic transmissions, and items sent in error. Railroad Grade Crossing and Out-of-Service Orders convictions were also included in the major offense population as first convictions for these violations also require disqualification from operating a commercial motor vehicle. Removal of these items left a sample of only 11 major offenses and 5 serious traffic violations.

lane changes on February 26, 2018. However, the State of Conviction did not notify the State of Record until June 18, 2019—467 days beyond the 10-day requirement. Table 4 lists major offenses and serious traffic violations in our sample with delayed paper-based notifications.

Table 4. Delays in Transmitting Paper-Based Notifications

State of Conviction	Major Offense or Serious Traffic Violation ACD/Description	Conviction Date	Date Conviction Sent	Days in Excess of 10-Day Requirement
IL	M42/Improper or erratic lane changes (serious)	2/26/2018	6/18/2019	467
MN	B27/Driving or operating a CMV in violation of driver or vehicle out-of-service order (out-of-service-order-major)	10/25/2018	12/28/2018	54
OR	A20/ Driving or operating a motor vehicle under influence of alcohol or drugs (major)	6/7/2019	8/6/2019	50
OR	B26/ Driving or operating a motor vehicle while license suspended (major)	7/17/2019	8/8/2019	12
WV	M86/Using a hand-held mobile device while driving or operating a motor vehicle (serious)	6/26/2019	7/12/2019	6
IL	M21/Failure to stop before reaching tracks at a railroad-highway grade crossing when the tracks are not clear (railroad grade crossing-major)	6/27/2019	7/9/2019	2
IL	B26/Driving or operating a motor vehicle while license suspended (major)	8/1/2019	8/12/2019	1

Source: OIG analysis; some descriptions truncated due to space limitations

States Did Not Always Post Driver Records from Paper-Based Notifications in a Timely Manner

Based on our review, States of Record did not timely post paper-based notifications listing major offenses and serious traffic violations to driver records. Federal regulations require States to make such information available—by posting convictions and disqualifications to driver records—within 10 days of receiving notification from another State.³¹

Six of 11 major offenses we reviewed were posted to the driver's record after 10 days; 1 record was never posted. One of five serious traffic violations we reviewed was posted following the 10-day period; one record was never posted. For example, a driver was convicted of refusing to submit to an alcohol test on June 28, 2019. The State of Conviction notified the State of Record on

³¹ 49 CFR § 384.225(c)(1).

July 8, 2019. The State of Record did not post the conviction to the driver's record until September 2, 2020—422 days after the paper notification was sent.

According to one State official, the conviction was placed in the wrong batch because the notification was received in the mail. Officials in another State stated they did not have a record of when they received the paper notification and only updated the driver record after they received the electronic notification. State delays in posting driver conviction records pose an increased risk to public safety because unsafe drivers will continue to operate commercial vehicles. Table 5 lists the delays in conviction postings we identified in our sample.

Table 5. Delays in Conviction Postings Following Paper-Based Notifications

State of Record	Major Offense or Serious Traffic Violation ACD/Description	Date Notification Sent/Received	Date Conviction Posted	Days in Excess of 10-Day Requirement
LA	A12/Refused to submit to test for alcohol—Implied Consent Law (major)	7/8/2019 (sent)	9/2/2020	412
IL	A91/ Administrative Per Se (major)	8/9/2019 (sent)	10/1/2019	43
WA	B26/Driving or operating a motor vehicle while license suspended (major)	2/22/2019 (sent)	4/10/2019	37
FL	A20/Driving or operating a motor vehicle under influence of alcohol or drugs (major)	8/6/2019 (sent)	9/6/2019	21
PA	M86/Using a hand-held mobile device while driving or operating a motor vehicle (serious)	7/12/2019 (sent)	8/7/2019	16
TN	B26/Driving or operating a motor vehicle while license suspended (major)	8/23/2019 (received)	9/16/2019	14
TX	B27/Driving or operating a CMV in violation of a driver or vehicle out-of-service order (out-of-service-order-major)	12/28/2018 (sent)	1/13/2019	6

Note: To calculate delays in conviction postings following paper-based notifications, we used date notification sent for sample items where the date the notification was received by the State of Record is unknown. We used the date notification was received when the State of Record provided us with evidence of the date the State received the notification from the State of Conviction.

Source: OIG analysis; some descriptions truncated due to space limitations

One State Did Not Apply a CDL Disqualification

One State, Louisiana, did not impose the appropriate disqualification for a paper-based traffic conviction until we inquired about it. In this example, an individual was eventually disqualified from driving commercial vehicles for life. However, Louisiana took 432 days—from conviction to update of the driver record—to disqualify the driver. According to a State official, a former employee received the mailed notification but did not update the driver record, and another official

corrected the record later. As a result, the driver spent over a year holding a CDL before being disqualified. Disqualifications that are not applied correctly or timely pose an increased risk to public safety as unsafe drivers remain on the road.

FMCSA's APR Process Lacks Adequate Standard Operating Procedures and Other Quality Control Measures for Verifying That State CDL Programs Meet Federal Requirements

FMCSA's APR process did not include quality control measures and did not address key factors that impact CDL disqualifications. The Agency also did not have an adequate process or criteria for ensuring that States' timely mitigate compliance issues, and its information system for tracking State compliance issues was not user-friendly.

FMCSA's Annual Program Reviews Did Not Include Quality Control Measures

FMCSA's APR process did not include quality control measures for conducting the reviews—a key control for helping to ensure their effectiveness. FMCSA is developing, but has not yet completed, detailed procedures for conducting APRs. Additionally, the Agency provided a checklist to assist with calendar year 2019 APRs but did not require its evaluators to use the checklist. Because of the voluntary nature of the checklist, 11 of 51 APRs completed in calendar year 2019 did not document completion of key checklist items; in some cases, evaluators skipped or deleted items.

Additionally, APR evaluators did not always elevate discrepancies they identified to a reported finding. For example, Federal regulations³² state that States of Conviction must notify States of Record within 10 days of convictions. Although the regulations are silent on how to enforce the 10-day requirement, FMCSA's internal standard provides that States will be in compliance if they transmit 90 percent of convictions and disqualifications within the required timeframe. We found that 16 of 51 APRs in calendar year 2019 concluded that States sent convictions timely when the timeliness rate was less than 100 percent, and 3 of the 16 concluded that States were timely when the timeliness rate was less than 90 percent. Table 6 presents calendar year 2019 APR quality control weaknesses.

³² 49 CFR § 384.209(a), (c).

Table 6. Quality Control Weaknesses in 2019 Annual Program Reviews

Quality Control Weakness	APRs
Evaluators did not review paper-based conviction logs sent to the FCWD.	24
Evaluators did not document review of State paper-based conviction logs.	22
Evaluators accepted an electronic transmission timeliness rate of less than 100 percent. See note below.	16
APR report did not have FMCSA signatures.	12
Evaluators skipped and/or deleted checklist items.	12
Evaluators accepted a timeliness rate of less than 100 percent for in-State posting of convictions to driver records. See note below.	4
Evaluators used an outdated APR checklist and did not address key items.	4
Evaluators noted a discrepancy in sample items and did not record finding.	3

Note: Since regulations are silent on how to enforce the 10-day requirement, we used a 100-percent threshold for our analysis. FMCSA's internal standard uses a 90 percent threshold.

Source: OIG analysis of FMCSA APRs conducted in 2019

We noted that FMCSA issued an updated APR checklist for calendar year 2020 that expanded the guidelines for certain evaluation areas and required that its evaluators use the checklist. However, the Agency removed a requirement to verify the APR was conducted by a FMCSA official and did not apply a supervisory quality control review, an essential control element. FMCSA officials stated that Agency supervisors reviewed the APR findings but did not review APR checklists for accuracy and compliance.

Without complete quality control measures, FMCSA has less visibility on the quality and effectiveness of its APRs, which increases the risk that the Agency will not identify States' noncompliance with requirements.

FMCSA's Annual Program Review Checklist Did Not Address Key Factors That Impact CDL Disqualification

FMCSA's APR evaluation process, based on FMCSA's 2016 policy memo, lacked key controls to verify that States meet CDL program requirements. FMCSA provided a voluntary checklist to help its evaluators conduct the APRs. Our review of 51³³ APRs conducted in calendar year 2019 found that while most evaluators used it, the checklist did not address key disqualification factors.

³³ 50 States and the District of Columbia.

First, the APR checklist prompted FMCSA's evaluators to review a sample of electronic out-of-State convictions received by a State. However, the checklist did not explicitly direct the evaluators to use this sample to determine if these electronic out-of-State convictions were posted on driver records within the required 10 days. According to FMCSA, the Agency provides training to its evaluators to identify issues such as failing to post convictions within the required 10 days. While training is an essential component in making sure that evaluators follow established controls, the control itself in this case was not included in the tool used to carry out the review process.

Additionally, although the Agency-provided checklist instructed reviewers to determine if a State sent paper notifications of convictions to other States timely, it did not ask the reviewer to evaluate or test the State's processing of paper notifications it received from other States.

Likewise, the checklist instructed reviewers to assert whether or not the State was posting in-State convictions to driver's records within 10 days but did not ask reviewers to test the State's processing of in-State convictions.

Furthermore, FMCSA's 2016 policy memo required evaluators to conduct minimum sample testing of either 2 percent of all CDLIS transactions in a month or a total of five transactions, whichever amount was greater. Although the checklist established a minimum standard of 10 transactions, it did not direct evaluators to conduct testing of 2 percent of the total transactions for the month if that amount was greater than the established minimum.

Finally, the APR checklist did not prompt evaluators to determine whether States transmitted conviction notifications *both* electronically and by mail. The CDLIS State Procedure Manual states that convictions must be transmitted either electronically *or* via mail. Despite this, some States sent notifications using both methods. For instance, Idaho SDLA officials stated they mailed paper copies as backups for electronic conviction notifications.

Each year, FMCSA revises its APR checklist to incorporate risk factors based on areas of focus and information the Agency identified during the prior year. In September 2020, FMCSA issued a policy memo that included an updated APR checklist, expanded guidelines for certain evaluation areas and required use of the checklist for its 2020 reviews.³⁴ However, the updated 2020 APR checklist did not address the control weaknesses we noted above. FMCSA has planned improvements for the 2021 APR checklist that will incorporate these issues and others, including transmission of foreign driver convictions to the FCWD.

³⁴ According to Agency officials, due to COVID-19 pandemic concerns for the safety of FMCSA and SDLA employees, they did not require onsite APRs in 2020 and conducted virtual reviews instead.

Without a strong set of guidelines to govern the conduct of its APR process, FMCSA has less assurance that its evaluators will be able to determine whether States are fully complying with the CDL regulations.

FMCSA Did Not Have an Adequate Process for Ensuring that States Timely Mitigate Compliance Issues and Identifying When To Impose Sanctions

FMCSA’s oversight process did not adequately address recurring findings of noncompliance among the States. We found that 22 of 51 APRs conducted in 2019 listed repeat findings. As shown in table 7, our examination of APRs and FMCSA-provided SCORE data documented that, as of January 6, 2020, 128 of 210 open findings had been identified in previous years. Of these, 54 findings were at least 2 years old, and some findings had been identified as far back as 2010.³⁵ For example, a finding in 2010 indicated that the State of Massachusetts did not identify all disqualifiable offenses and thus did not take the required disqualification actions.

Table 7. Outstanding Findings as of January 6, 2020

Age of Open Findings	Number of Outstanding Findings
0–1 years	156
2–4 years	38
5–7 years	6
8–10 years	10
Total	210

Source: OIG analysis of APRs and SCORE data extracted by FMCSA

Federal regulations³⁶ require that to be in substantial compliance, States must meet every standard through the combined effect of their statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, facilities, equipment, and personnel, and enforcement practices. FMCSA’s 2016 policy memo defines substantial compliance as a

³⁵ FMCSA indicated that reviews conducted prior to 2013 were not APRs. Prior to institution of the APR process, contractors conducted comprehensive reviews. A FMCSA official stated that older findings were migrated into SCORE.

³⁶ 49 CFR § 384.301(a).

“designation by FMCSA that a State has no finding(s) of noncompliance or that a State is making a good faith effort to address the finding(s).”

Federal regulations³⁷ also require FMCSA to inform a State of its preliminary determination that the State does not meet the minimum standards for substantial compliance. If, after reviewing a timely response by the State to the preliminary determination, FMCSA determines that the State still is not in compliance, the Agency will notify the State about its final determination.³⁸ Up to 4 percent of Federal-aid highway funds shall be withheld on the first day of the fiscal year following the first year of noncompliance and up to 8 percent following the second and subsequent years of noncompliance.³⁹ Agency officials told us that a Letter of Noncompliance initiates the process for withholding funds. The CDL disqualification process is only one part of the comprehensive APR, and none of the 15 Letters of Noncompliance sent to States during the last 12 years were related to CDL disqualifications.

According to FMCSA, the Agency follows the workflow in SCORE to track the mitigation of a State’s noncompliance with CDL requirements, starting with citing a finding and the State submitting an action plan to correct the deficiencies. Additionally, FMCSA officials stated they are developing a formal process for determining when a State is not making a good faith effort to correct identified noncompliance with CDL regulations. The draft process is in internal FMCSA review and concurrence. FMCSA further clarified that its formal process would include guidelines on determining whether the noncompliance is substantial.

FMCSA’s SCORE Information System for Managing State Compliance Issues Is Not User-Friendly

SCORE tracks compliance issues identified in APRs and State corrective action plans and stores related documents. However, FMCSA Division Office staff and State officials have voiced dissatisfaction with SCORE. Twelve of the 37 SDLAs that responded to our questionnaire indicated they experienced challenges when using SCORE to track and update APR findings.

During our site visit to one State, SDLA officials stated SCORE was not user-friendly. SDLA officials explained there are data that officials at FMCSA—but not SDLAs—can see, that SCORE limitations inhibit their ability to report corrective actions efficiently, FMCSA-provided training on SCORE applies specifically to Federal employees, and States have not received training specific to their needs.

³⁷ 49 CFR § 384.307(b).

³⁸ 49 CFR § 384.307(d).

³⁹ 49 CFR § 384.401(a) and (b).

According to FMCSA, the Agency has made several SCORE training resources available to the States.

FMCSA officials acknowledged that SCORE needs to be more dynamic and that a better platform is needed. The Agency is reviewing the need for system updates to increase SCORE's robustness, such as producing reports in mission-critical areas, including trend analysis. The current SCORE platform limits FMCSA's ability to effectively manage States' corrective action plans.

State Noncompliance With Federal CDL Disqualification Requirements and Other State Actions Pose Challenges for FMCSA's Oversight

FMCSA considers driver convictions adjudicated by States of Conviction to be final. However, some States of Record gave drivers an opportunity to initiate administrative appeals of their out-of-State convictions, overturned disqualifications, or backdated the start of CDL disqualification periods. In addition, certain State actions—including transmission of non-CDL convictions through CDLIS and masking of driver convictions—may affect FMCSA's ability to oversee State performance. Finally, States' implementation of new software systems and the COVID-19 pandemic may present increased risks to State compliance with Federal CDL disqualification requirements.

States Offered Administrative Appeals to Out-of-State Convictions and Overturned Disqualifications

FMCSA considers driver convictions adjudicated by States of Conviction to be final. However, State officials permitted drivers to appeal federally required disqualifications outside of the judicial process even after the driver was convicted of a disqualifying offense in another State.

According to Federal regulations,⁴⁰ a CDL holder is subject to disqualification if convicted of specific violations, such as driving under the influence of drugs or alcohol, leaving the scene of an accident, or using a vehicle to commit a felony.

Eighteen of the 37 SDLAs that responded to our questionnaire indicated they offer administrative appeals outside the judicial process. Twelve of the 18 SDLAs

⁴⁰ 49 CFR § 383.51(a)(3). See exhibits E and F1–F3 for a complete list of disqualification-warranting offenses.

said they offer these appeals to both in-State and out-of-State drivers.⁴¹ According to SDLA officials in Idaho and Ohio, State law permits administrative appeals of federally required disqualifications. Drivers can initiate an administrative appeal after conviction by a judicial court. An Idaho official stated that disqualifications are rarely overturned during the appeal process, but officials in Ohio indicated they overturn disqualifications when the situation warrants it.

For example, FMCSA found that Pennsylvania convicted an Ohio-licensed driver for a hit-and-run violation. Ohio conducted an administrative hearing about disputed aspects of the conviction. As a result, Ohio did not disqualify the driver despite Pennsylvania's completed judicial process, which FMCSA found was in violation of Federal regulations.

According to FMCSA, States of Record should consider the process to be adjudicated by States of Conviction and proceed with the disqualification. The Agency emphasized that, to comply with FMCSA's regulations, States of Record should give "full faith and credit" to adjudications that occur in the States of Conviction. However, States' responses to our questionnaire indicated that States of Record continue to offer administrative appeals to drivers convicted in other States. In such cases, States have not complied with the Federal regulations that require drivers to be disqualified as expeditiously as possible, posing an increased risk to highway safety.

Some States Backdated CDL Disqualification Periods, Reducing Penalties for Convicted Drivers

Some States backdated the disqualification period to a date prior to the notification by the State of Conviction. The CDLIS ACD Manual defines the disqualification start date as the date the license is disqualified, after the driver is notified. According to FMCSA officials, a disqualification should begin on or after the day the State of Record receives the notification from the State of Conviction; they added that backdating is not permissible.

Four SDLAs that responded to our questionnaire took this action. Based on our analysis of CDLIS data, some drivers served a shorter disqualification time period than Federal law requires. Specifically, 2 (5 percent) of 44 major offenses in our sample—representing Colorado and Kentucky—had retroactive disqualification start dates that effectively reduced the federally mandated driver disqualification

⁴¹ In its response to our draft report, FMCSA stated that it followed up with these SDLAs and determined that in most cases the SDLA did not offer appeals to drivers but had not understood OIG's survey question. However, since we could not confirm this FMCSA-provided information, we relied on the data in the questionnaire responses.

period. Based on our findings, we estimate that 99⁴² of the approximately 2,182 CDL holders in our universe of major offenses transmitted in fiscal year 2019 had backdated disqualifications.

One State recorded an effective disqualification start date of November 16, 2018—for an individual convicted of driving under the influence of alcohol—although the State received notification on February 28, 2019. Since this was a first-time major offense, Federal regulations⁴³ require a minimum 1-year disqualification. By backdating the disqualification period, the State effectively reduced the penalty by at least 104 days. States that backdate disqualification start dates weaken FMCSA's enforcement of Federal CDL regulations.

States' Transmission of Non-CDL Holder Convictions via CDLIS Impacts FMCSA's Oversight of State Performance

States transmitted convictions for drivers not holding a CDL or CLP (non-CDL holder) at the time of the citation to States of Record significantly less timely than they sent convictions of CDL holders. However, States of Record posted non-CDL convictions to driver records significantly faster than they posted CDL convictions. Transmissions of non-CDL holder data through CDLIS impact FMCSA's ability to evaluate State performance.

Of the 134 drivers in our sample of electronic CDLIS transactions, 31 were recorded as non-CDL holders at the time of citation. Twenty-three of the 31 were convicted of major offenses, while the remaining 8 were convicted of serious traffic violations. Only one driver committed the violation in a commercial vehicle. We determined that States of Conviction transmitted 8 (34 percent) of the 23 major offenses and 3 (37 percent) of the 8 serious traffic violations after the 10-day requirement. Based on our findings, we estimate that States were late in sending 397⁴⁴ of 1,140 major offenses and 1,201⁴⁵ of 3,204 serious traffic violations electronically during fiscal year 2019. These results indicate States transmitted non-CDL convictions significantly less timely than CDL convictions.

⁴² Our 99 estimate has a 100-percent lower confidence level of -97 (-4.4 percent) and a 90-percent upper confidence level of 113 (+5.2 percent) of the estimated 2,182 major offenses of CDL holders in our universe so that our confidence limits range from 2 to 212 (0.00092 to 9.8 percent).

⁴³ 49 CFR § 383.51(b)

⁴⁴ Our 397 estimate has a precision of +/- 216 (+/-18.9 percent) of the estimated 1,140 major offenses of non-CDL holders in our universe at the 90-percent confidence level so that our confidence limits range from 181 to 613 (15.9 to 53.8 percent).

⁴⁵ Our 1,201 estimate has a precision of +/- 1,122 (+/-35.0 percent) of the estimated 3,204 serious traffic violations of non-CDL holders in our universe at the 90-percent confidence level so that our confidence limits range from 79 to 2,324 (2.5 to 72.5 percent).

We also determined that States of Record posted 1 (4 percent) of 23 non-CDL major offenses to the driver's record after the 10-day requirement. Based on our findings, we estimate that 50⁴⁶ non-CDL major offenses were not posted timely in fiscal year 2019. These results indicate that States of Record posted non-CDL data to driver records significantly faster than they posted CDL data. States timely posted all non-CDL serious traffic violations we reviewed to driver records.

CDLIS does not identify whether or not a driver holds a CDL, and States are not prohibited from sending non-CDL holder information electronically. The CDLIS State Procedure Manual defines a "CDLIS conviction" as an ACD conviction of a CDL holder or an individual who drove a commercial vehicle despite the lack of a CDL. The State Procedure Manual requires States to report and record all CDLIS convictions but does not require States to query CDLIS to determine if a CDL driver has been convicted for non-CDL violations.⁴⁷ Furthermore, FMCSA uses various reports produced by AAMVA to evaluate portions of State compliance with Federal CDL requirements. For example, FMCSA's 2016 policy memo instructs reviewers to perform an assessment of State compliance with the requirements to report convictions and withdrawals. The memo also instructs the reviewers to use the latest monthly timeliness and accuracy reports to conduct the assessment.

FMCSA stated that current CDLIS documentation does not require States to delete Master Pointer Records. However, FMCSA relies on reports that include all CDLIS convictions, including those involving non-CDL holders. Therefore, FMCSA is using data that include more than CDL holder convictions to evaluate State performance. As a result, FMCSA may be using information that includes non-CDL drivers to determine whether a State is in compliance with CDL disqualification regulations.

FMCSA May Face Oversight Challenges as States Implement New Software Systems

States use a variety of software systems to manage driver records and other data. FMCSA, in coordination with States, conducts periodic data-quality validation and verification tests to assess record completeness and accuracy. FMCSA records the test results on the APR checklist.

According to the 37 SDLAs that responded to our questionnaire, 22 currently use a software system that is over 10 years old, and 10 plan to upgrade their system within the next 2 years. These software upgrades may pose challenges for FMCSA

⁴⁶ Our 50 estimate has a 100-percent lower confidence level of -49 (-4.3 percent) and a 90-percent upper confidence level of 80 (+7.0 percent) of the estimated 1,140 major offenses of non-CDL holders in our universe so that our confidence limits range from 1 to 130 (0.00088 to 11.4 percent).

⁴⁷ Determination of CDL privileges is a State responsibility.

and AAMVA to ensure that State systems meet requirements for coordination with CDLIS and to provide for FMCSA's continued data validation and verification testing. Table 8 provides the age and status of SDLA software systems.

Table 8. Age and Status of SDLA Software Systems

SDLA System Manufacture Date	Number of SDLA Responses	SDLAs Planning Upgrades Within 2 years
1979 or earlier	1	0
1980 to 1989	7	5
1990 to 1999	7	1
2000 to 2009	7	3
2010 to present	14	1
Unknown	1	0
Total	37	10

Source: OIG analysis of SDLA questionnaire responses

For example, State officials in both Idaho and Ohio indicated they experienced data-quality issues when transitioning from old to new software systems in 2018 and 2019 respectively. Implementation of the system in Idaho led to nonresponsive ACD codes, inconsistent application of lifetime CDL bans for the same offense, and production issues with driver records.

Ohio subjected its software system to testing, but the system experienced problems during implementation. For example, it did not pick up some ACD codes. Ohio officials told us that the system has been a massive undertaking and that at least 30 things still need to be addressed.

Our questionnaire asked the SDLAs when their software systems had been implemented; 1 of the 37 SDLAs that responded did not answer this question. Fourteen of the 37 SDLAs use a system that was implemented within the last 10 years, and 5 of those 14 SDLAs indicated that software issues were creating problems for the CDL disqualification process. For example:

- One SDLA was unable to submit disqualifications electronically because its software system linked convictions to a disqualification that did not apply to the convicted driver.
- The software system in another SDLA sometimes did not disqualify drivers when warranted or transmit disqualifications to other States.
- In a third SDLA, a new software system created work-item queues, but employees were not sufficiently trained to use and locate items in those queues. The system did not recognize disqualifications set to begin on a future date and sent them to an unassigned queue for manual review.

Two of these three SDLAs indicated the issues have since been addressed. Still, these experiences show the challenges and risks that arise when entities implement new software systems. According to FMCSA officials, there are risks associated with implementing new software, and the APR is intended to address unique circumstances that may affect compliance with CDL regulations.

While aware of these risks, FMCSA has not developed a process for coordinating with AAMVA to mitigate them. Furthermore, State officials indicated they turn to AAMVA for assistance when they encounter software problems. Ensuring a smooth transition to new State software systems limits the risks that FMCSA will overlook data-quality issues and that States will be unable to send and receive electronic notifications associated with out-of-State CDL convictions.

States' Conviction-Masking Actions Undermine Federal Safety Regulations

Federal regulations⁴⁸ prohibit States from masking, deferring imposition of a judgment, or allowing a CDL or CLP holder to enter into a diversion program that would prevent a conviction for any violation of a State or local traffic law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the driver's record. FMCSA seeks to mitigate masking through grants to the National Traffic Law Center, which provides training on masking for State officials, as well as educational materials and resources on its website.

FMCSA documented findings related to masking in 7 of 51 APRs conducted in calendar year 2019. Furthermore, 9 of the 37 SDLAs that responded to our questionnaire indicated they face challenges related to masking or other conviction-diversion programs, while 9 others indicated they did not know. According to officials from the National Center for State Courts, the largest volume of masking cases occur at the prosecutor level because courts generally accept prosecutor recommendations.

SDLA officials in Idaho and Ohio, the two States we visited, indicated that masking may occur. An Idaho FMCSA official stated the State is working to change a law that permits masking of CDL convictions. An Ohio official stated that masking has not arisen from specific court cases, but it is possible. The Ohio SDLA procedure is to inform the court in writing about masking and explain how to avoid it.

Masking undermines Federal safety regulations and limits FMCSA's efforts to ensure that States take disqualification actions against unsafe drivers.

⁴⁸ 49 CFR § 384.226.

States May Face Challenges in Complying With Federal CDL Requirements Due to the Coronavirus Pandemic

FMCSA responded to COVID-19 by issuing a notice⁴⁹ stating the Agency will not make a finding or determination of substantial noncompliance for SDLAs unable to, within 10 days:

- Post disqualification or conviction data on a driver record;
- Transmit notification of a disqualification or conviction to a State of Record; or
- Report a driver's conviction to the FCWD.

This notice also applies to SDLAs unable to disqualify drivers as expeditiously as possible. It remained in effect until June 30, 2020. According to the notice, the Agency will not permit noncompliance to continue more than 90 days after the end of the notice's effective period.

Ten SDLAs informed us they have encountered delays in the adjudication process due to COVID-19, citing the closing of courts and limited staffing. As States continue to experience these challenges, FMCSA may face increased risks in ensuring that States are complying with disqualification laws as it completes its APR process.

Conclusion

FMCSA's oversight of State CDL programs is key to prevention of large truck and bus crashes and disqualification of unsafe drivers from operating commercial vehicles. While FMCSA has established annual program reviews to monitor State compliance, those reviews have gaps in the oversight of CDL disqualifications. These weaknesses may limit FMCSA's ability to keep unsafe CDL drivers off the road and enhance public safety.

⁴⁹ FMCSA, *Notice of Enforcement Discretion Concerning Certain Requirements for 10-Day State Notification and Other Actions on Driver License Records*, April 17, 2020.

Recommendations

To strengthen FMCSA's oversight of States' actions to disqualify commercial drivers, we recommend the Federal Motor Carrier Safety Administrator:

1. Improve current requirements for States to record, track, and maintain paper-based convictions sent and received via mail by incorporating its standardized method for States to aggregate paper-based convictions to facilitate FMCSA's evaluation of State performance.
2. Finalize and implement standardized operating procedures for conducting annual program reviews and for supervisory quality control reviews of completed annual program reviews.
3. Modify the annual program review checklist to require reviewers to address key factors and determine whether:
 - a. sampled out-of-State convictions were posted to driver records within the required 10 days;
 - b. results from a review of in-State convictions and paper notifications of out-of-State convictions were documented;
 - c. sample testing was conducted of the greater of 2 percent of electronic transactions in a month or a total of five transactions, in accordance with FMCSA's 2016 policy memorandum;
 - d. States are sending convictions either electronically or via mail but not using both methods;
 - e. States begin disqualification periods on or after the date the out-of-State conviction is received; and
 - f. States that offer administrative appeals for out-of-State disqualifications and permit them to be overturned are identified.
4. Finalize and implement a standard operating procedure for determining when a State is not making a good faith effort to timely mitigate compliance issues and when to impose sanctions on noncompliant States.
5. Complete the Agency's review of the State Compliance Records Enterprise system and implement identified improvements for managing States' compliance issues.
6. Develop and implement a process to segregate non-CDL holder convictions from all Commercial Driver's License Information System reports and workbooks utilized to evaluate State's compliance with CDL regulations.

7. Develop and implement a plan for coordinating with the American Association of Motor Vehicle Administrators to mitigate risks when States transition to new software systems.

Agency Comments and OIG Response

We provided FMCSA with our draft report on May 26, 2021, and received its response on June 25, 2021, which is included as an appendix to this report. FMCSA concurred with all seven of our recommendations and proposed appropriate actions and completion dates. Accordingly, we consider all recommendations as resolved but open pending completion of the planned actions.

Actions Required

We consider recommendations 1 through 7 resolved but open pending completion of planned actions.

Exhibit A. Scope and Methodology

We conducted this performance audit between November 2019 and May 2021 in accordance with generally accepted Government auditing standards as prescribed by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objective of this self-initiated audit was to assess FMCSA's oversight of States' actions to disqualify commercial drivers when warranted. Specifically, we identified risks and challenges associated with (1) States' timeliness in processing electronic notifications of driver convictions, (2) State's processing of paper-based CDL conviction notifications transmitted by mail, (3) FMCSA's processes for reviewing State CDL programs, and (4) States' actions affecting FMCSA's oversight.

To identify risks and challenges associated with States' timeliness in processing electronic convictions, we selected statistical samples of convictions transmitted electronically in fiscal year 2019. Specifically, we relied on data in CDLIS CD90.4.3 Disqualifying Convictions Received reports provided by FMCSA for all 50 States and the District of Columbia. We tested the data from the report and concluded that the data was sufficiently reliable for purposes of this audit. These reports provide information on all potentially disqualifying convictions (those with major offense, railroad-highway grade crossing offense, out of service orders, and serious traffic violation ACD codes) received electronically by a State in the selected timeframe.

We combined all individual State reports into a single file to select our sample. We selected a statistical sample of electronically submitted convictions from these data sets for two populations,⁵⁰ including drivers with major offenses and drivers with serious traffic violations. We requested the driver history record for each sample item from the State of Record to verify whether it was timely and appropriately recorded. Specifically, we calculated the number of days from traffic

⁵⁰ For the sample size computations for each of the two populations, we used an estimated noncompliance rate of 50 percent, a confidence level of 90 percent, and a precision no greater than +/- 10 percent. The final sample sizes were 67 sampled from a population of 3,322 convictions for drivers with major offenses sent electronically and 67 sampled from a population of 26,832 convictions for drivers with serious traffic violations only sent electronically. Railroad-highway grade crossing offenses and Out-of-Service Orders were also included in the major offense population as first convictions for these violations also require disqualification from operating a commercial motor vehicle.

citation to conviction, from conviction to transmission of the conviction to the State of Record, from receipt of the conviction by the State of Record to the posting of conviction to the driver's records, and from posting the conviction to the effective start date of the disqualification period. We also determined whether the State posted the conviction correctly in the driver's record and applied the appropriate disqualification period.

To identify risks and challenges associated with the States' timeliness in processing paper-based notifications, we requested logs of convictions sent via mail from all 50 States and the District of Columbia. However, only 17 of 50 States provided us with the required paper logs, and only 14 of these 17 States provided the logs in time to be used in our sample analysis. We combined these logs into a single file, from which we selected our mailed conviction sample.⁵¹ During the review of our mailed conviction sample, we determined most convictions were either sent in error, duplicates of previous electronic transmissions, or were not related to a driver holding a CDL/CLP. As a result, we limited our reporting to only the 11 major offenses and 5 serious traffic violations sampled paper convictions of drivers' holding CDLs or CLPs and that were not duplicates of previously sent electronic transmissions or sent in error. Similar to our electronic conviction methodology, we requested the driver history record for each sample item from the State of Record to verify whether it was timely and appropriately recorded. Specifically, we calculated the number of days from traffic citation to conviction, from conviction to transmission of the conviction to the State of Record, from transmission of the conviction (or, if provided, the date received by the State of Record) to the posting of conviction to the driver's records, and from posting the conviction to the effective start date of the disqualification period. We also determined whether the State posted the conviction correctly in the driver's record and applied the appropriate disqualification period.

In addition to our sample analysis, we interviewed SDLA officials during site visits to two States—Idaho and Ohio. We selected these two States based on an analysis of information available on a range of risk factors, including timeliness of conviction transmissions, data quality, and previous APR findings, among others. In these interviews we asked the State officials to provide information on and walkthroughs of their processes for transmitting and receiving convictions, as well

⁵¹ For the sample size computations of the paper-based population, we used an estimated noncompliance rate of 50 percent, a confidence level of 90 percent, and a precision no greater than +/- 10 percent. The final sample size was 58 sampled from a population of 364 convictions for drivers with major offenses sent via paper copy. Railroad Grade Crossing and Out-of-Service Orders convictions were also included in the major offenses population as first convictions for these violations also require disqualification from operating a commercial motor vehicle. An additional 8 convictions were randomly sampled for drivers with serious convictions only sent via paper copy and were not intended for projection purposes.

as any challenges they have encountered related to CDL disqualifications and how those were overcome.

To identify risks and challenges associated with FMCSA's processes for reviewing State CDL programs, we interviewed FMCSA Headquarters officials, as well as Division officials during our site visits to Idaho and Ohio. During these interviews we gained an understanding of the APR requirements and procedures used in the performance of the APRs. With this understanding, we examined documentation provided by FMCSA for APRs performed in calendar year 2019 for all 50 States and the District of Columbia—noting inconsistencies in the templates used for examination and in the APR steps performed. In addition, we requested extracts of open APR findings from the SCORE system and information about any enforcement actions FMCSA took in response to outstanding findings.

Finally, to identify risks and challenges associated with States' actions affecting FMCSA's oversight, we developed a questionnaire and sent it to the SDLAs in all 50 States and the District of Columbia. The questionnaire asked the States for information about their practices related to CDL conviction transmission and processing, such as estimates of the amount of paper convictions they receive and whether they offer administrative appeals of convictions and the categories of drivers those are offered to. In addition, we requested information about challenges States are facing related to computer systems, local courts, and other areas. Thirty-seven SDLAs responded to our questionnaire. We analyzed results in total to form conclusions about common practices and challenges. We also interviewed officials at the National Traffic Law Center and the National Center for State Courts to understand their role in supporting FMCSA's oversight of the CDL program and to understand challenges caused by masking and citation-to-conviction timeliness.

Exhibit B. Organizations Visited or Contacted

Federal Motor Carrier Safety Administration

Headquarters, Washington, DC

Idaho Division, Boise, ID

Ohio Division, Columbus, OH

State Driver's Licensing Agencies

Alabama

Alaska

Arizona

Arkansas

California

Colorado

Connecticut

District of Columbia

Delaware

Florida

Georgia

Hawaii

Idaho

Illinois

Indiana

Iowa

Kansas

Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee

Texas

Utah

Vermont

Virginia

Washington

West Virginia

Wisconsin

Wyoming

Other Organizations

American Association of Motor Vehicle Administrators

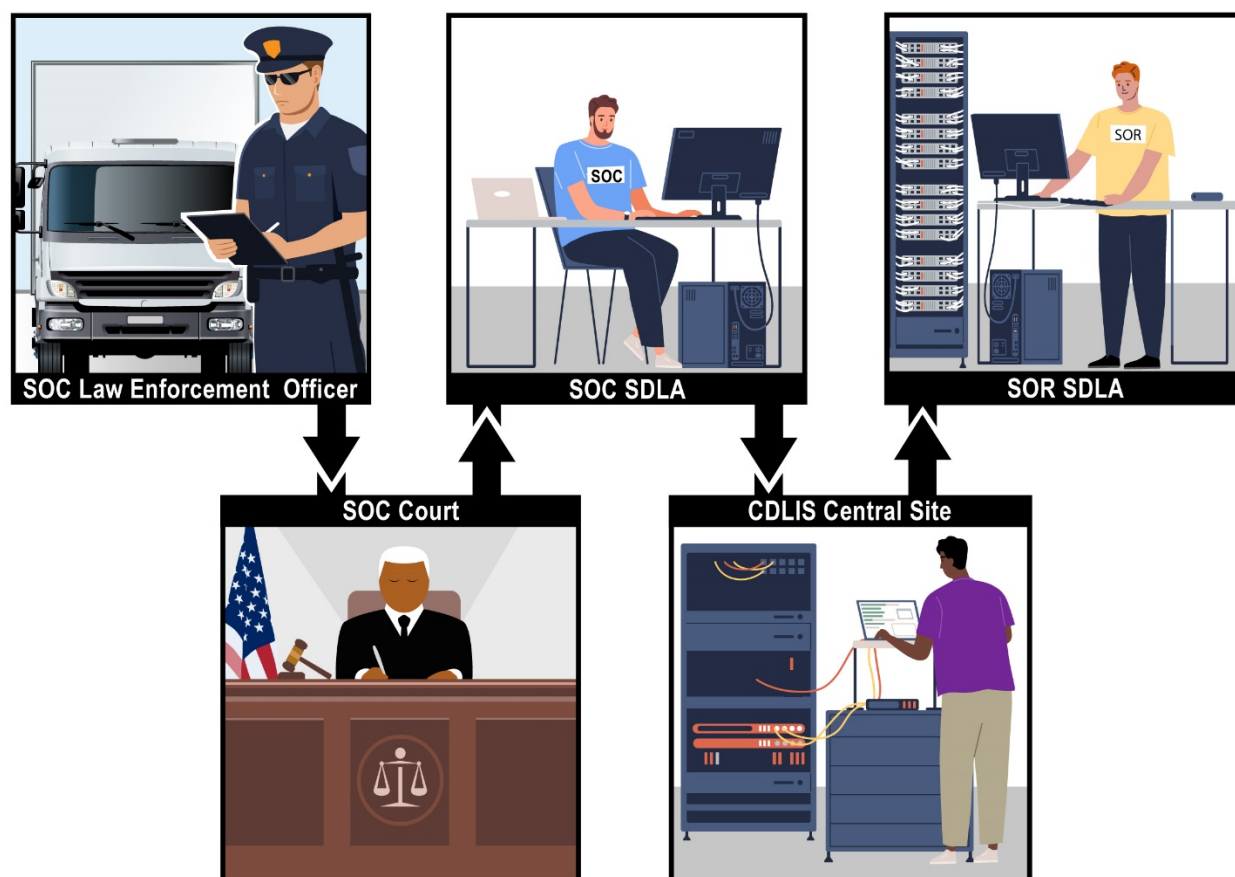
National Center for State Courts

National Traffic Law Center

Exhibit C. List of Acronyms

AAMVA	American Association of Motor Vehicle Administrators
ACD	AAMVA Code Dictionary
APR	Annual Performance Review
CDL	Commercial Driver's License
CFR	Code of Federal Regulations
CDLIS	Commercial Driver's License Information System
CLP	Commercial Learner's Permit
COVID-19	Coronavirus Disease 2019
DHR	Driver History Record
DOT	Department of Transportation
FCWD	Federal Convictions and Withdrawal Database
FMCSA	Federal Motor Carrier Safety Administration
MAP-21	Moving Ahead for Progress in the 21 st Century Act
OIG	Office of Inspector General
RMV	Registry of Motor Vehicles
SCORE	State Compliance Records Enterprise
SDLA	State Driver Licensing Agency
SOC	State of Conviction
SOR	State of Record

Exhibit D. How SDLAs Use CDLIS



Source: OIG interpretation of a graphic from a FMCSA presentation on CDLIS

CDLIS is composed of (1) a distributed database that stores information about commercial drivers and (2) the associated hardware and software used to manage commercial driver information, including unique Master Pointer Records for each driver. Each SDLA houses a detailed driver record on each driver it licenses, such as identification and license information and a history of convictions and disqualifications. States use CDLIS to electronically report traffic convictions of holders of CDLs and CLPs. The State of Conviction (SOC) uses CDLIS to notify the State of Record (SOR) where the driver is licensed. States may also mail paper notifications of convictions. In either case, under Federal requirements, States of Conviction have 10 days to send a traffic conviction notification to the State of Record, which in turn has 10 days to process the conviction and post it to the driver record.

Exhibit E. Disqualifications for Major Offenses

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as defined in §383.5, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *
(1) Being under the influence of alcohol as prescribed by State law * *	1 year	1 year	3 years	Life	Life.
(2) Being under the influence of a controlled substance * * *	1 year	1 year	3 years	Life	Life.
(3) Having an alcohol concentration of 0.04 or greater while operating a CMV * * *	1 year	Not applicable	3 years	Life	Not applicable.
(4) Refusing to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in §383.72 of this part * * *	1 year	1 year	3 years	Life	Life.
(5) Leaving the scene of an accident * * *	1 year	1 year	3 years	Life	Life.
(6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this table * * *	1 year	1 year	3 years	Life	Life.
(7) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CLP or CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV	1 year	Not applicable	3 years	Life	Not applicable.

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as defined in §383.5, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *
(8) Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide	1 year	Not applicable	3 years	Life	Not applicable.
(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance * * *	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement
(10) Using a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11)	Life—not eligible for 10-year reinstatement	Not applicable	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement	Not applicable

Source: 49 CFR § 383.51

Exhibit F1. Disqualifications for Serious Traffic Violations

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *
(1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the regulated or posted speed limit	60 days	60 days	120 days	120 days.
(2) Driving recklessly, as defined by State or local law or regulation, including but, not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property	60 days	60 days	120 days	120 days.
(3) Making improper or erratic traffic lane changes	60 days	60 days	120 days	120 days.
(4) Following the vehicle ahead too closely	60 days	60 days	120 days	120 days.
(5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident	60 days	60 days	120 days	120 days.
(6) Driving a CMV without obtaining a CLP or CDL	60 days	Not applicable	120 days	Not applicable.

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *
(7) Driving a CMV without a CLP or CDL in the driver's possession ¹	60 days	Not applicable	120 days	Not applicable.
(8) Driving a CMV without the proper class of CLP or CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported	60 days	Not applicable	120 days	Not applicable.
(9) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV. ²	60 days	Not applicable	120 days	Not applicable.
(10) Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a CMV. ²	60 days	Not applicable	120 days	Not applicable.

¹ Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CLP or CDL on the date the citation was issued, shall not be guilty of this offense. ² Driving, for the purpose of this disqualification, means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

Source: 49 CFR § 383.51

Exhibit F2. Disqualifications for Railroad Highway Grade Crossing Offenses

If the driver is convicted of operating a CMV in violation of a Federal, State or local law because * * *.	For a first conviction a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *
(1) The driver is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train * * *	No less than 60 days	No less than 120 days	No less than 1 year.
(2) The driver is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear * * *	No less than 60 days	No less than 120 days	No less than 1 year.
(3) The driver is always required to stop, but fails to stop before driving onto the crossing * * *	No less than 60 days	No less than 120 days	No less than 1 year.
(4) The driver fails to have sufficient space to drive completely through the crossing without stopping * * *	No less than 60 days	No less than 120 days	No less than 1 year.
(5) The driver fails to obey a traffic control device or the directions of an enforcement official at the crossing * * *	No less than 60 days	No less than 120 days	No less than 1 year.
(6) The driver fails to negotiate a crossing because of insufficient undercarriage clearance * * *	No less than 60 days	No less than 120 days	No less than 1 year.

Source: 49 CFR § 383.51

Exhibit F3. Disqualifications for Out-of-Service Orders

If the driver operates a CMV and is convicted of * *	For a first conviction while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * *	For a second conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * *	For a third or subsequent conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *
(1) Violating a driver or vehicle out-of-service order while transporting nonhazardous materials	No less than 180 days or more than 1 year	No less than 2 years or more than 5 years	No less than 3 years or more than 5 years.
(2) Violating a driver or vehicle out-of-service order while transporting hazardous materials as defined in §383.5, or while operating a vehicle designed to transport 16 or more passengers, including the driver	No less than 180 days or more than 2 years	No less than 3 years or more than 5 years	No less than 3 years or more than 5 years.

Source: 49 CFR § 383.51

Exhibit G. Delays in Conviction Notification Findings by State—Major Offenses

State of Conviction	Number of Offenses in Sample	Number of Offenses Sent After 10 Days
Minnesota	8	1
Arkansas	4	
Pennsylvania	4	1
Massachusetts	3	
New Hampshire	3	3
Florida	2	
Indiana	2	1
Maine	2	
Tennessee	2	
Utah	2	
West Virginia	2	
California	1	1
Iowa	1	
Kentucky	1	
Missouri	1	
Nebraska	1	
New Jersey	1	
New York	1	
Texas	1	1
Washington	1	
Wisconsin	1	
Total	44	8

Source: OIG analysis

Exhibit H. Delays in Conviction Notification Findings by State—Serious Traffic Violations

State of Conviction	Number of Traffic Violations in Sample	Number of Violations Sent After 10 Days
Indiana	5	
Tennessee	4	1
Arkansas	3	
Massachusetts	3	
Michigan	3	
Pennsylvania	3	1
Virginia	3	
Wyoming	3	1
Colorado	2	
Georgia	2	1
Illinois	2	
Kansas	2	
Kentucky	2	
Ohio	2	
Oklahoma	2	
South Carolina	2	
Arizona	1	
California	1	1
Connecticut	1	
Iowa	1	
Louisiana	1	1
Maryland	1	
Minnesota	1	1
Missouri	1	
Montana	1	
New Hampshire	1	
New Jersey	1	
New Mexico	1	1

State of Conviction	Number of Traffic Violations in Sample	Number of Violations Sent After 10 Days
Nevada	1	1
New York	1	
Utah	1	
Washington	1	1
Total	59	10

Source: OIG analysis

Exhibit I. Delays or Errors in Conviction Posting Findings by State—Major Offenses

State of Record	Number of Offenses in Sample	Number of Offenses Posted After 10 Days	Number of Offenses Not Posted to Driver Records
Arizona	3		
Florida	3		
Ohio	3		
Connecticut	2	2	
Idaho	2		
Indiana	2		
Kentucky	2		
Louisiana	2		
Missouri	2		
New Jersey	2		
Oregon	2		
Texas	2		1
Vermont	2		
Wisconsin	2	1	
Alabama	1		
California	1		
Colorado	1	1	
Georgia	1		
Kansas	1		
Maryland	1		
Minnesota	1		
North Dakota	1		
New York	1		
Oklahoma	1		
South Carolina	1		
Tennessee	1		
Washington	1	1	
Total	44	5	1

Source: OIG analysis

Exhibit J. Delays or Errors in Conviction Posting Findings by State—Serious Traffic Violations

State of Record	Number of Traffic Violations in Sample	Number of Violations Posted After 10 Days	Number of Violations Not Posted to Driver Records
Florida	9		
Nevada	4		
California	3		
Georgia	3		
Illinois	3		1
Michigan	3		
Mississippi	3		
Texas	3		
Missouri	2		
North Carolina	2		
Nebraska	2		
Ohio	2		
Pennsylvania	2		
Rhode Island	2		
Vermont	2		
Alabama	1		
Arkansas	1		
Arizona	1		
Indiana	1		
Louisiana	1		
Maine	1		
Minnesota	1		
New Hampshire	1		
New Jersey	1		
Oklahoma	1		
Oregon	1		
South Carolina	1		

State of Record	Number of Traffic Violations in Sample	Number of Violations Posted After 10 Days	Number of Violations Not Posted to Driver Records
Tennessee	1		
Utah	1		
Total	59		1

Source: OIG analysis

Exhibit K. Major Contributors to This Report

KERRY R. BARRAS	PROGRAM DIRECTOR
JULIAN PLATT	PROJECT MANAGER
ROBERT HINSON	SENIOR AUDITOR
JAMES MCGEE	SENIOR ANALYST
DEDRIC JACKSON	ANALYST
CELESTE BORJAS	ATTORNEY ADVISOR
JANE LUSAKA	SENIOR WRITER-EDITOR
GEORGE ZIPF	SUPERVISORY MATHEMATICAL STATISTICIAN

Appendix. Agency Comments

INFORMATION: Management Response to the Office of Inspector General's Draft Report on FMCSA's Oversight of Commercial Driver's Disqualifications

Meera Joshi
Deputy Administrator

MEERA
CATHERINE
JOSHI

Digitally signed by MEERA
CATHERINE JOSHI Date:
2021.06.24
16:33:09 -04'00'

David Pouliott

Assistant Inspector General for
Surface Transportation Audits

The Federal Motor Carrier Safety Administration (FMCSA) is committed to ensuring that State Driver Licensing Agencies (SDLAs) disqualify unsafe commercial drivers when warranted. FMCSA reviews SDLA compliance with the Commercial Driver's License (CDL) requirements in 49 CFR Parts 383 and 384 by conducting Annual Program Reviews (APRs), requiring corrective action plans, and acting to withhold Federal-Aid Highway funds upon a finding of substantial non-compliance. Effective oversight of States' actions to disqualify unsafe commercial drivers is critical to FMCSA achieving its mission to reduce crashes, injuries, and fatalities involving large trucks and buses.

FMCSA is taking the following actions to improve its oversight of the CDL program:

- Conducting an in-depth review of data from the States' processing of electronic and paper-based convictions to confirm that SDLAs are properly posting convictions and withdrawals to driver records and applying the appropriate disqualification.
- Reviewing the State Compliance Records Enterprise system and associated business rules and system requirements to identify and implement needed improvements.
- Working with the American Association of Motor Vehicle Administrators (AAMVA) to develop and implement a process to segregate non-CDL holder convictions from Commercial Driver's License Information System (CDLIS) reports. The Agency will continue to coordinate with AAMVA to develop and implement a plan to mitigate risks when States transition to a new software system.
- Completing a rulemaking to implement 49 U.S.C. 31311(a)(23), which requires SDLAs to exclusively use CDLIS to electronically exchange driver history record information, including convictions and withdrawals.
- Requiring FMCSA supervisory quality control reviews of completed APRs each fiscal year.
- Modifying the APR checklist to address the issues noted in recommendation three.
- Issuing a non-compliance policy to improve FMCSA's timeliness and consistency in addressing State compliance issues and imposing sanctions for substantial noncompliance.

Based on our review of the draft report, we concur with OIG's seven recommendations as written. We plan to complete actions to address recommendations 2, 3 and 4 by March 31, 2022, and recommendations 1, 5, 6 and 7 by December 31, 2023.

We appreciate the opportunity to review the OIG draft report. Please contact Nicole McDavid, Chief of the CDL Division, by email at nikki.mcdavid@dot.gov or at 202-366-0831.

U.S. DOT IG Fraud & Safety Hotline

hotline@oig.dot.gov | (800) 424-9071

<https://www.oig.dot.gov/hotline>

Our Mission

OIG conducts audits and investigations on behalf of the American public to improve the performance and integrity of DOT's programs to ensure a safe, efficient, and effective national transportation system.

OFFICE OF INSPECTOR GENERAL
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590



www.oig.dot.gov