



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 384

[Docket No. FMCSA-2023-0269]

RIN 2126-AC68

Commercial Driver's License (CDL) Standards; Incorporation by Reference of a New State Procedures Manual (SPM)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to incorporate by reference the most recent edition of the American Association of Motor Vehicle Administrators, Inc. (AAMVA) Commercial Driver's License Information System (CDLIS) State Procedures Manual (SPM), Version c.0. This would require all State driver's licensing agencies (SDLAs) to use this edition of the manual to provide guidance on the information systems procedures of the commercial driver's license (CDL) program. Such information includes, but is not limited to, CDL standards, State compliance with CDL programs, qualifications of drivers, and credentials and security threats assessments.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2023-0269 using any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov/docket/FMCSA-2023-0269/document>. Follow the online instructions for submitting comments.

- Mail: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.
- Fax: (202) 493-2251.

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at U.S. Department of Transportation Library, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-1812. Copies of the material are available as indicated in the “Executive Summary” section of this preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca Rehberg, CDL Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (850) 728-2034, cdlcompliance@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

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I. PUBLIC PARTICIPATION AND REQUEST FOR COMMENTS

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (FMCSA-2023-0269), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2023-0269/document>, click on this NPRM, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552),

CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2023-0269/document> and choose the document to review. To view comments, click this NPRM, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov as described in the system

of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>. The comments are posted without edit and are searchable by the name of the submitter.

II. EXECUTIVE SUMMARY

A. Purpose and Summary of the Regulatory Action

In this NPRM, FMCSA proposes to incorporate by reference version c.0 of the Commercial Driver's License Information System (CDLIS) State Procedures Manual (SPM), which the American Association of Motor Vehicle Administrators, Inc. (AAMVA) released in September 2023. In 2014, FMCSA incorporated by reference version 5.3.2.1 of the CDLIS SPM, which AAMVA released in August 2013 (79 FR 59450 (Oct. 14, 2014)). Version c.0 of the CDLIS SPM has replaced the 2013 version. The CDLIS SPM (version c.0) provides guidance on the information system procedures of the CDL program. This change reflects a routine update of the referenced SPM (version c.0) to include changes introduced to exchange driver history record information (EEE) procedures and drug and alcohol clearinghouse (DACH II or Clearinghouse) information exclusively electronically. This NPRM discusses all updates to the currently incorporated 2013 edition of the SPM (version c.0). FMCSA is providing the public an opportunity to comment on the incorporation by reference of version c.0 of the SPM.

The material is available, and will continue to be available, for inspection at the Department of Transportation Library by the means identified in ADDRESSES. Copies of the SPM (version c.0) may also be obtained through AAMVA. Further details and contact addresses and telephone numbers are provided in proposed § 384.107 in the amendatory text of this NPRM. AAMVA plans to update this SPM as needed to reflect changing legal requirements and best practices in the operations of CDLIS. Incorporating

version c.0 by reference, however, should ensure that each State complies with the specific version required by FMCSA.

Twenty-six updates distinguish the September 2023 edition of the SPM (version c.0) from the August 2013 edition. The incorporation by reference of the September 2023 edition does not impose new regulatory requirements and consequently would neither impose costs nor result in quantifiable benefits.

III. ABBREVIATIONS

AAMVA	American Association of Motor Vehicle Administrators
AAMVAnet	American Association of Motor Vehicle Administrators Network
ACD	AAMVA Code Dictionary
CBI	Confidential Business Information
CDL	Commercial Driver's License
CDLIS	Commercial Driver's License Information System
CFR	Code of Federal Regulations
CLP	Commercial Learner's Permit
CMV	Commercial Motor Vehicle
CMVSA	Commercial Motor Vehicle Safety Act
CS	Central Site
CSOR	Change of State of Record
CVP	Common Validation Processor
DACH	Drug and Alcohol Clearinghouse
DGAF	Mexican General Directorship of Federal Motor Carrier Transportation
DHR	Driver History Record
DOT	Department of Transportation
EEE	Exclusive Electronic Exchange
ELG	Eligible
E.O.	Executive Order
FHWA	Federal Highway Administration
FMCSA	Federal Motor Carrier Safety Administration
FMCSRs	Federal Motor Carrier Safety Regulations
FR	Federal Register
LIC	Licensed
MPR	Master Pointer Record
NARA	National Archives and Records Administration
NPRM	Notice of Proposed Rulemaking
OSOR	Old State of Record
PDPS	Problem Driver Pointer System
RTD	Return to Duty
SDLA	State Driver's Licensing Agency
SOC	State of Conviction
SOI	State of Inquiry
SOR	State of Record
SOW	State of Withdrawal
SPEXS	State Pointer Exchange Services

SPM	State Procedures Manual
S2S	State-to-State
The Secretary	The Secretary of Transportation
UMRA	Unfunded Mandates Reform Act
U.S.C.	United States Code

IV. LEGAL BASIS

Section 206 of the Motor Carrier Safety Act of 1984 (Pub. L. 98-554, title II, 98 Stat. 2832, 2834, codified at 49 U.S.C. 31136) directed the Secretary of Transportation (the Secretary) to regulate commercial motor vehicles (CMVs) and the drivers and motor carriers that operate them. The Secretary was also directed to issue regulations governing the physical condition of drivers.

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Pub. L. 99-570, title XII, 100 Stat. 3207-170, codified at 49 U.S.C. chapter 313) required the Secretary, after consultation with the States, to prescribe regulations on minimum uniform standards for State issuance of CDLs. CMVSA also specified information States must include on each CDL (49 U.S.C. 31308). Congress delegated the authorities set forth in the Motor Carrier Safety Act of 1984 and the CMVSA to FMCSA's Administrator (see 49 U.S.C. 113(f)(1); see also section 1.87(e)-(f)).

FMCSA, in accordance with 49 U.S.C. 31308, has authority to prescribe procedures and requirements the States must adhere to in issuing CDLs and commercial learner's permits (CLPs). To avoid loss of Federal-aid highway funds, 49 U.S.C. 31314 requires each State to comply substantially with 49 U.S.C. 31311(a), which prescribes the requirements for State participation in the CDL program. To ensure that the States are able to exchange information about CDL holders efficiently and effectively through CDLIS, as required by 49 U.S.C. 31311(a)(5) through (9), (15), (18) through (19), and (21), this proposal would require States issuing CDLs and CLPs to follow all the procedures described in version c.0 of the CDLIS SPM when posting, transmitting, and receiving all information on a CDL driver's CDLIS driver record.

V. BACKGROUND

FMCSA is required by statute to maintain an information system that serves as the clearinghouse depository of information about the licensing, identification, and disqualification of operators of CMVs (49 U.S.C. 31309). CDLIS is the information system that serves that function.

In 1988, the Federal Highway Administration (FHWA) entered into a designation agreement with AAMVA's affiliate AAMVAnet,¹ Inc. (AAMVAnet) to create and operate CDLIS. Under that agreement, CDLIS must contain all the information required in 49 U.S.C. 31309(b). The 1988 agreement states that AAMVAnet will "cooperate fully with FHWA with respect to the operation of CDLIS including, but not limited to, information content and the development of standards relating to access to CDLIS by States and various employers and employees." Pursuant to section 106(b) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106-159, 113 Stat. 1748, 1757, 49 U.S.C. 113 note), the 1988 agreement automatically transferred to FMCSA upon the Agency's establishment and remained in effect until FMCSA and AAMVA, the party that inherited the responsibilities of its affiliate AAMVAnet entered into a superseding agreement in 2008, discussed below.

In August 2005, section 4123 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users authorized FMCSA to establish a modernization plan for CDLIS (Pub. L. 109-59, 119 Stat. 1144, 1734, codified in part at 49 U.S.C. 31309(e) et seq.). Section 4123 also authorized grants to States or organizations representing States for the modernization of CDLIS (49 U.S.C. 31309(f)).

¹ AAMVAnet is the telecommunications network that electronically links the following systems: The jurisdictions (motor vehicle Agencies or Department of motor vehicles), FMCSA, third-party service providers (TPSPs), Canadian interprovincial record exchange (IRE) Bridge, Mexican Access Node, and the CDLIS central site.

On May 2, 2006, FMCSA published the CDLIS Modernization Plan in the *Federal Register* (71 FR 25885). The Plan detailed the statutory requirements for modernization, the phases of the modernization plan, and the availability of grant funding for AAMVA and the States to comply with CDLIS modernization requirements. Since May 2006, AAMVA has received grants from FMCSA to complete the tasks enumerated in the Modernization Plan.

On June 9, 2008, FMCSA and AAMVA entered into a new cooperative agreement regarding the operation, maintenance, and modernization of CDLIS. While FMCSA authorizes AAMVA to maintain and operate CDLIS, FMCSA does not own CDLIS, and it is not a Federal system of records. FMCSA and AAMVA work closely together to monitor State compliance with the CDLIS specifications, as set forth in the 2006 CDLIS Modernization Plan, and States' annual grant agreements. FMCSA has awarded AAMVA Federal financial assistance grants to maintain an active Help Desk for the jurisdictions, conduct regularly occurring CDLIS training courses for the jurisdictions, and provide States with regular CDLIS transaction and error reports to improve their compliance efforts.

The goals of the 2008 agreement, to which any amendments must be made in writing and signed by all parties,² are to provide a framework for the ongoing operation, maintenance, administration, enhancement, and modernization of CDLIS by AAMVA. The modernization will ensure compliance with applicable Federal information technology security standards; electronic exchange of all information including the posting of convictions; self-auditing features to ensure that data are being posted correctly and consistently by the States; and integration of an individual's CDL and the medical certificate as required in the final rule, Medical Certification Requirements as

² The 2008 agreement was amended in 2013, however, the amendments did not relate to the CDLIS modernization efforts.

Part of CDL (73 FR 73096, Dec. 1, 2008). Finally, the agreement provides a schedule for modernization of the system. The updated version c.0 of the SPM implements the CDLIS modernization effort.

VI. DISCUSSION OF PROPOSED RULEMAKING

Version c.0 of the CDLIS SPM outlines the standard administrative practices required of the fifty States and the District of Columbia, known as “the jurisdictions,” when participating in CDLIS. The thirteen Canadian provinces and territories and the Mexican General Directorship of Federal Motor Carrier Transportation (DGAF) will also adopt version c.0 of the CDLIS SPM. Version c.0 of the SPM supersedes previous versions of the CDLIS SPM.

The primary audiences for this SPM (version c.0) are the jurisdictions involved in CDL programs, and their counterparts in Canada and Mexico, including administrative employees involved in driver licensing and computer technology staff supporting CDLIS transactions. The SPM (version c.0) contains background information about the laws mandating CDLIS and discusses types of CDLIS users. The SPM (version c.0) also includes descriptions, excerpted from the CDLIS System Specifications (version c.0), of the nationwide computerized data-exchange transactions used to electronically record and report driver information. Further, the SPM (version c.0) provides guidance on administrative driver licensing procedures that involve CDLIS, including issuing, renewing, transferring, withdrawing, and reinstating a driver’s license, and posting convictions. The SPM (version c.0) does not address CDL or CLP program requirements outside the scope of CDLIS.

The CDLIS SPM (version c.0) addresses changes that were made as part of the modernization effort to make CDLIS more efficient in handling the increasing number of driver records and data transactions. These changes provide guidance on the information system procedures of the CDL program. In addition, version c.0 includes updates to

support changes made to CDLIS as a result of the DACH II rule, published in October 2021 (81 FR 87686), and revises procedures to support changes made to CDLIS as a result of the EEE rule, published in July 2023 (86 FR 38937). Any references in the SPM (version c.0) to the U.S. Code or CFR should be confirmed by users.

The following is a summary of the updates introduced in version c.0 of the SPM:

AAMVA released a new version of the CDLIS SPM (version c.0) to introduce updates to CDLIS,³ as well as new administrative practices required by the jurisdictions as a result of the DACH II final rule. This new version of the SPM (version c.0) also revised procedural updates pertaining to the EEE final rule when a State receives a notification⁴ of conviction or withdrawal outside CDLIS after the EEE compliance date.⁵

The SPM includes multiple versions; however, this proposed rule will focus solely on the contents of latest version (c.0), which are discussed in more detail below. Twenty-six changes in the 2023 edition of the SPM (version c.0) distinguish it from the August 2013 edition. Of the 26 updates, 24 stem from the DACH II final rule and 2 stem from the EEE final rule.

The purpose of DACH II is to improve highway safety by ensuring that CLP or CDL holders with drug and alcohol program violations do not operate a CMV until they complete the return to duty process (RTD) and can lawfully resume driving. DACH II also ensures that all SDLAs⁶ are able to determine whether CMV drivers licensed in their State are subject to FMCSA's CMV driving prohibition. The following updates were made pursuant to the DACH II final rule:

The first through fourth updates are related to the CDLIS system and the newly introduced electronic transactions.

³ CDLIS is a nationwide network composed of a database that stores information about commercial drivers, and the associated hardware and software used to manage commercial driver information.

⁴ A notification is an indicator that a driver's status has changed in the Clearinghouse.

⁵ The EEE rule compliance date is August 22, 2024.

⁶ SDLAs maintain databases, application programs, and systems software to support State-to-State functions.

1. An update to the DACH II State Pointer Exchange Services (SPEXS) system was introduced to CDLIS-only participants, as well as CDLIS and State-to-State (S2S) participants.⁷ The SPEXS system is a platform operated by AAMVA, that is utilized to locate driver information in CDLIS based on identifiable information provided by the State, to ensure that each driver is associated with one license, one identity, and one record. The SPM (version c.0) adds a functional release level to SPEXS, providing specified sets of system functionality, thereby enabling participants to use the SPEXS platform. This helps identify and locate a driver's record and prevents the creation of duplicate records for the same driver.

2. As a result of the SPEXS update described above, two new transaction codes (CD40) and (CD41) were added to the CDLIS Solution table, which assigns and defines all existing codes in the SPEXS system to accomplish a specific business function. Each transaction facilitates the exchange of data by sending a message (in the form of a one-way transmission) carrying driver information from one CDLIS node to another in the AAMVA network. These new transactions will improve the functionality of driver record searches in CDLIS. The first transaction (CD40) enables information to be communicated from the central site (CS)⁸ to the State of record (SOR) via the Clearinghouse. The second transaction (CD41) enables information to be communicated from the State of inquiry (SOI)⁹ to the Clearinghouse via the CS. Both transactions are discussed in more detail below.

3. A new transaction code (CD40) was added to table 2 of the CDLIS transactions in the SPEXS system to obtain Clearinghouse driver status updates. The driver status update transaction is used to notify the SOR of a change in driver status by obtaining

⁷ The State-to-State (S2S) system allows States to electronically check with other participating States if an individual holds a CDL or CLP in another State.

⁸ The SPEXS central site (CS) facilitates the transmission of information from the Clearinghouse system to the States.

⁹ The SDLA jurisdiction that requests information about the driver from the State of record (SOR).

information from the Clearinghouse records. The SPEXS system facilitates the transmission of information in the form of notifications¹⁰ from the Clearinghouse to the States. In this transaction, the CS sends a request to the Clearinghouse to get a driver status for a jurisdiction. The Clearinghouse sends all driver status changes to the CS in response, and the CS then forwards the Clearinghouse notification to the requesting State. Finally, the SOR sends a receipt to the CS to confirm receipt of the notification. When receiving information from the CS, the SOR interprets it to determine whether a CDL or CLP needs to be downgraded, upgraded, or reinstated based on the Federal minimum requirements and the State's laws and policies, as applicable.

In certain cases, an error message is triggered for this type of transaction. This may originate from the CS to the Clearinghouse, or from the SOR to the CS, if a validation error occurs. An error could be triggered if the SOR cannot locate the CDL or CLP record or is no longer the current SOR, if the driver in question is reposed or deceased, and if the requested driver is not a CDL or CLP holder. The SPM (version c.0) also included a diagram (Figure 20) to aid in visualizing the driver status update process for the CD40 transaction.

4. A second transaction code (CD41) was introduced to table 2 of the CDLIS transactions in the SPEXS system to enable the SOI to request a driver's current status from the Clearinghouse. A change in the driver's status is caused either by an unresolved drug and alcohol violation or an erroneous violation. In this process, the SOI sends a status inquiry to the CS to obtain information on the driver's status. The CS then forwards the SOI's request to the Clearinghouse, and the latter sends a response to CS. The CS validates and forwards the Clearinghouse notification to the SOI. When receiving information from the CS, the SOI (if it is the SOR) interprets the information to

¹⁰ This applies to States that opt to receive notifications from the Clearinghouse. The Clearinghouse sends notifications to the States whenever there is a change of status in the Clearinghouse. States may also opt to use CDLIS to receive notifications.

determine whether a CDL or CLP needs to be downgraded, upgraded, or reinstated based on the Federal minimum requirements and the State's laws and policies, as applicable. If the SOI is not the SOR, the SOR interprets the information from the CS to determine if the applicant has a Clearinghouse violation, which would prohibit the issuance of a CDL or CLP.

In certain cases, an error message is triggered for this type of transaction. This may originate from the CS to the Clearinghouse or from the CS to the SOI, if a validation error occurs. An error would be triggered if the driver status inquiry message does not pass the validations performed by the CS, if the Clearinghouse notification does not pass the validations performed by the CS, or if any system errors are encountered (such as message delivery errors, timeout, or software issues). The SPM (version c.0) incorporated a diagram (Figure 21) to aid in visualizing the driver status update process for the CD41 transaction.

Items 5 through 24 are related to the processes for the jurisdictions to conduct Clearinghouse checks on an individual prior to issuing a CDL or CLP and the steps they must follow based on the results of those checks.

5. A new bullet item was added to the "Procedures for Issuing a CDL or CLP" section of the SPM (version c.0) to establish procedures relating to issuing a duplicate CDL or CLP. The purpose of this addition is to establish a procedure for SDLAs to adopt when issuing a duplicate. This new procedure aims to reduce the risk of fraud by requiring that the jurisdiction issuing a duplicate CLP or CDL check the driver's image on file when they appear in-person.

6. A new section (divided into two subsections) was added to establish Clearinghouse checks, as a requirement for the jurisdictions prior to issuing a CDL or CLP. In the first subsection, a reference to § 383.73 was included, which requires Clearinghouse checks be made prior to the issuance of a CDL or CLP.

The second subsection introduced a new column to table 4 titled “CDLIS Checks Prior to Issuance” to ensure a Clearinghouse check to confirm the applicant’s eligibility is completed prior to the issuance of a CDL or CLP. Additionally, Note 3 was added to table 4 regarding CDL reinstatement applications. The note specifies that, prior to reinstatement, the jurisdictions must have processes in place to ensure the driver is not prohibited from operating a CMV due to a Clearinghouse violation. It also outlines the ways in which the jurisdictions can accomplish this process by providing options to either perform a Clearinghouse check or to maintain internal records of notifications received from the Clearinghouse.

7. A new section was added on the Clearinghouse check requirements. First, this section describes the purpose of the DACH II final rule and references the requirements associated with conducting a Clearinghouse check to comply with the rule’s provisions. This section also addresses the circumstances in which States and the jurisdictions must complete checks or obtain a record using the Clearinghouse prior to issuing a CDL or CLP.

This section also addresses the processes for the jurisdictions to downgrade the driver’s license when notified¹¹ by the Clearinghouse, or when the Clearinghouse query¹² indicates that the driver is prohibited from operating a CMV. This would be achieved by changing the commercial status on the CDLIS driver record from “LIC” (licensed) to a minimum of “ELG” (eligible) for CDL holders, and similarly changing the permit status from LIC to ELG for CLP holders. Additionally, the SOR may perform an in-State withdrawal for a person with a Clearinghouse violation and must follow the procedures

¹¹ The DACH Driver Status Update transaction is used to notify the SOR of a change in driver status via the Clearinghouse.

¹² The jurisdictions are required to query the Clearinghouse to receive status updates on a given driver prior to issuing, renewing, transferring, or upgrading a CDL or CLP starting November 18, 2024.

outlined in the SPM (version c.0) to complete the withdrawal process. This process is further explained in update 15 of the SPM (version c.0).

Lastly, this section includes a note on data records for drivers who are in prohibited status due to a Clearinghouse violation starting January 6, 2020 (the original compliance date for initial Clearinghouse requirements) and directs the jurisdictions to adopt a process to retrieve that data. The process provided lists two viable options to retrieve data either via the FMCSA web portal or by contacting FMCSA or AAMVA directly. The jurisdictions will have 60 days from the compliance date¹³ of the DACH II final rule to act on such records.

8. A new section was added to describe the procedures for SDLAs to connect to the Clearinghouse, as well as brief descriptions for each option. The jurisdictions may either choose to connect to the Clearinghouse using the FMCSA direct-connect option¹⁴ (or the FMCSA solution), or via the CD40 or CD41 transaction (or the CDLIS solution).

9. An update was made to determine eligibility for a CDL or CLP by the addition of a Clearinghouse check. A bullet was added to the list of eligibility criteria¹⁵ to prohibit drivers from being disqualified again if the driver's prior jurisdiction disqualified and subsequently reinstated them. A subsection was also added to introduce a requirement that the jurisdictions query the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL or CLP.

10. A new section was added to clarify the course of action SDLAs must take in evaluating the results received from the Clearinghouse on a driver's status, or when the jurisdiction queries the Clearinghouse. Pursuant to § 383.73, the jurisdictions are required

¹³ The DACH II final rule's compliance date is November 18, 2024.

¹⁴ The jurisdictions that opt to use the FMCSA direct-connect option must refer to <https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources> page and must directly contact FMCSA (clearinghouse@dot.gov) for the implementation of this option.

¹⁵ The list of eligibility criteria include: a CDLIS check, a Problem Driver Pointer System (PDPS) check, a 10-year history check, a medical qualification check, social security number verification and citizenship/lawful permanent residency/legal presence, or a Clearinghouse check.

to access and use information from the Clearinghouse and to check the driver's status by querying the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL or CLP.

Five subsections were added to describe a list of reasons why a Clearinghouse status may change and how SDLAs evaluate the information provided by the Clearinghouse. The five sections include more detail on the Clearinghouse data elements, identifying and matching a driver in the Clearinghouse, acting on a driver with prohibited status, acting on a driver with a not prohibited status, and Clearinghouse downgrade, which are explained below.

11. The Clearinghouse data elements subsection identifies information that a jurisdiction must use, including the driver's identifying information (such as the driver's full name, date of birth, CDL or CLP number, etc.) and status in the Clearinghouse system (if the driver is prohibited and, if so, the date that status went into effect). A full list of all Clearinghouse elements, their description and usage are outlined in table 10 titled "Clearinghouse Data Elements" in the SPM (version c.0).

12. The second subsection was added to provide guidelines for the jurisdictions to identify a driver's matching record in the Clearinghouse, and to compare Clearinghouse information against information from other checks (including CDLIS and the Problem Driver Pointer System¹⁶ (PDPS)), to ensure action is being taken on the correct driver. States may also use existing guidelines to determine if a Clearinghouse notification is needed for the driver in question.

Additional procedures for States were introduced to evaluate which record to act upon when multiple records are found on the same driver. For instance, if more than one CDLIS record is found, the SOR must take necessary action on the CDLIS record with

¹⁶ The Problem Driver Pointer System (PDPS) is a system in which SDLAs provide the National Drivers Record with a pointer to a problem driver's history when the driver is convicted of a Clearinghouse violation.

the most recent issue date. If one record is CDLIS and another record is non-CDLIS (kept outside of the CDLIS system), the SOR must take necessary action on the CDLIS record as applicable. If one or more non-CDLIS records indicating no history or record of a prior CDL or CLP are found, the SOR may take necessary action on the driver's CDL or CLP status, as applicable. If no record exists in the Clearinghouse, no violations will prohibit a driver from operating a CMV.

13. The third subsection addresses actions the jurisdictions must take against a driver with a prohibited status after they are alerted either via Clearinghouse notification or as a result of a Clearinghouse query. This process will prevent prohibited drivers from operating a CMV. This subsection lists three options for the jurisdictions to follow: denial of the driver's request resulting in non-issuance of a CDL or CLP, removal of CDL or CLP privileges from the driver's license, or downgrade of the driver's CDL or CLP.

14. The fourth subsection addresses actions the jurisdictions must take when the Clearinghouse indicates a driver is not prohibited from operating a CMV. Pursuant to the DACH II final rule, a driver is considered "not prohibited" when the driver is no longer prohibited from operating a CMV. This occurs after the driver completes the RTD requirements or if the driver was erroneously identified as prohibited. In the latter case, the Clearinghouse notifies the jurisdiction that the driver's status was based on erroneous information. After receiving a notification, the jurisdiction will not initiate a downgrade process if one has not been started. If the jurisdiction has already initiated the downgrade process, it must terminate it and clear the driver's record of any reference to the erroneously identified violation. Finally, if the jurisdiction has already completed the downgrade process, the jurisdiction must expeditiously reinstate the driver's privileges and expunge the driver's record of any reference to the erroneously identified violation. The jurisdictions must follow a similar process when a query indicates the driver is not prohibited from operating a CMV.

15. The final subsection addresses additional procedures to downgrade the commercial driving privilege due to Clearinghouse violations. In this case, the jurisdictions are subject to a Federal requirement to change the commercial status of the CDLIS driver record from LIC to a minimum of ELG for CDL holders, and similarly change the permit status from LIC to a minimum of ELG for CLP holders.

This subsection also addresses scenarios when a SOR may take additional action, such as in-State withdrawal, based on the State's laws and/or policies. In this case, the SOR must downgrade the driver's status to "NOT" (not a CDL or CLP) and use the State's code indicating withdrawal. In-State withdrawals must not be transmitted to the CDLIS driver history record (DHR), which is maintained on the jurisdiction's system.

The subsection also outlines the process for SDLAs performing in-State withdrawals to respond to an S2S status request (referred to as an SG message), history request (referred to as an SB message) or change of record request (referred to as an SD message). Transactions for status requests from S2S to the SOR are coded CD30,¹⁷ CD04,¹⁸ and CD08,¹⁹ respectively. In all cases, the SOR must respond with the current driver status, but must not include any details of Clearinghouse in-state withdrawal in the CDLIS DHR.

The first procedure applies to an S2S Status Request (CD03, SG message). In the CDLIS S2S Status Request, the SOR must report the driver status to the SOI via SG message. This request enables the SOI to obtain status information on a CDL holder directly from the SOR without inquiring through CDLIS. The typical use of this transaction is to obtain the status information for a driver who was one of several returned as matches on a search inquiry. Since status requests are not sent when a search

¹⁷ This online search inquiry is a transaction which allows the jurisdictions to perform inquiries on multiple drivers, instead of one driver at a time, to fulfil their requirement. This process was developed as an alternative to the CDLIS online search inquiry.

¹⁸ The CD04 post requisite determines whether any information in the driver's history precludes it from granting a license or requires it to conduct additional processing.

¹⁹ This describes a change of record transaction by transferring a message from the new SOR to the CS.

inquiry results in more than one match, the S2S status request gives the inquirer a tool for obtaining the status for any or all of the matched drivers. This request may also be used to verify the status of a CDL or CLP when an out of State license is presented to a jurisdiction. The inquirer may request the status for only one driver at a time with this request. Upon receipt, the SOR validates the driver's identification information, retrieves the status information, and returns the status information to the inquirer.

The second procedure applies to an S2S history request (CD04, SB message). In the CDLIS S2S history request the SOR or old State of record (OSOR) must report the entire driver history to the SOI or new State of record (NSOR). An S2S history request enables an inquirer to obtain the DHR on a CDL holder directly from the SOR without inquiring through CDLIS. Typically, a jurisdiction uses this transaction when a driver is considered for a change of State of record (CSOR). First, the inquirer verifies the driver's existence in the CDLIS CS, license status, and SOR using search inquiry, verification inquiry²⁰, or verification inquiry preceding an S2S history request. The inquirer may request the history for only one driver at a time with this request. Upon receipt, the SOR validates the driver identification information, retrieves the DHR, and returns the driver history information to the SOI.

The third procedure applies to a CSOR Request (CD08, SD message). In the S2S CSOR request processed in CDLIS, the SOR or OSOR must report the entire driver history to the SOI or NSOR. The CSOR transaction is used to transfer a DHR from an OSOR to a NSOR, and to reflect this change in the Master Pointer Record (MPR).²¹ The new jurisdiction officially becomes the NSOR when the CSOR request is initiated. Simultaneously, the old jurisdiction becomes the OSOR. The new roles are reflected in the MPR once CDLIS retrieves and updates the MPR. The CSOR transaction is not used

²⁰ A verification inquiry (CD02) is a request for a driver's Master Pointer Record (MPR) and license status.

²¹ The Master Pointer Record (MPR) is a pointer to the jurisdictions that issued the driver's latest CDL or CLP. In CDLIS and SPEXS, the CS keeps a MPR for each driver.

when Canadian or Mexican CDL holders move to the United States. In these cases, the driver is added as a new driver. The previous CDL's jurisdiction code and driver's license number combination may be entered in the corresponding primary identification data, or "AKA" fields. The transaction is also not used for United States CDL holders moving to Mexico or Canada. When issuing any type of license to a driver, if the driver has a CDLIS MPR at the CS, the new licensing jurisdiction must initiate the CSOR and accept responsibility of the pointer as the NSOR.

The NSOR sends a CSOR update message to CDLIS upon receipt of the CSOR update message, and CDLIS will validate the driver identification information in the message. If the NSOR is changing the driver's name, date of birth, and/or social security number, CDLIS checks to see if any drivers can be considered possible duplicates for the new driver. If so, CDLIS issues notifications of possible duplicate driver to all SORs affected, including the SOR that submitted the CSOR update message. CDLIS retrieves the driver's MPR, updates it by noting the initiator of the CSOR transaction as the NSOR and the recipient of the CSOR request as the OSOR. After CDLIS returns a confirmation to the NSOR, it sends a DHR request to the OSOR. Upon receipt of the DHR request, the OSOR: validates the message data, retrieves the DHR, and adds the NSOR's jurisdiction code and driver's license number to its DHR. This enables the OSOR to respond to status and history requests from the NSOR until such time as the CSOR is complete, and to return driver history information to the NSOR.

The CDLIS Common Validation Processor (CVP) is a function of CDLIS which performs edits on the history information before forwarding it to the NSOR. Upon receipt of the response message from the OSOR via the CDLIS CVP, the NSOR performs any required additional validations not already performed by the CDLIS CVP. Within 96 hours of receipt of the information, the NSOR creates the DHR and posts the history, and sends a confirmation to CDLIS. Upon receipt of the confirmation from the NSOR,

CDLIS validates the information, verifies that the information matches the updated MPR, and sends confirmations to both the NSOR and OSOR validating the CSOR is complete.

A process is also set in place for the change of record requests from the OSOR to the NSOR. Both SORs have specific responsibilities while a CSOR is being processed. The transaction is initiated when the OSOR receives an SD message from the CDLIS CS. When the CSOR is processing, the OSOR must not respond to status or history requests for that driver, except those received from the NSOR. The OSOR must respond with an error to all other inquiring the jurisdictions and clearly annotate that the driver record is no longer associated with the SOR. The OSOR must also annotate the driver's record to indicate the NSOR's jurisdiction code and driver license number. After the NSOR receives the "Confirm CSOR in-Progress" (CG) message, the CDLIS CS sets an internal flag that the CSOR is in progress. The NSOR then becomes the driver's SOR and must respond to all status and history requests for that driver.

16. New procedures were introduced for the NSOR and OSOR during and after the CSOR process outlining the appropriate course of action when the OSOR performs an in-State withdrawal due to a Clearinghouse violation and a CSOR is taking place. An in-State withdrawal is performed when an SDLA initiates a withdrawal of a driver's CDL or CLP due to a Clearinghouse violation against a jurisdiction's State laws and/or policies.

The first procedure applies to the OSOR when the following applies in the DHR: the driver's commercial status is designated as "NOT," the DHR only consists of an open in-State withdrawal due to a Clearinghouse violation, and the driver's record does not have any other open convictions and/or withdrawals. In this case, the OSOR must have in-State procedures in place to reinstate the driver's commercial status to ELG upon receipt of the CSOR history request (SD message).

The second procedure applies to the OSOR when the DHR with the driver's commercial status is designated as "NOT," and the DHR consists of an open in-State

withdrawal along with other convictions and/or withdrawals. In this case, the OSOR must have in-State procedures in place to reinstate only the Clearinghouse in-State withdrawal and follow existing Federal and State guidelines for convictions and withdrawals.

The third update is applicable when the driver has obtained a NSOR. In this case, the NSOR must respond to all status and history requests for that driver. Procedures are also set in place for the NSOR when a Clearinghouse violation is found. In this case, the NSOR must follow the procedures described in update 12 to determine whether the driver is eligible for a CDL or CLP.

17. New procedures were added to enable SDLAs to respond to an S2S status request, S2S history request, and CSOR request. This procedure also requires that the SDLAs must not transmit Clearinghouse withdrawals on the CDLIS DHR. In the S2S status request, the SOR must report the driver status to the SOI, as specified in CD03. In the S2S history request and CSOR requests, the SOR or OSOR must report the entire driver history to the SOI or SOR as specified in CD04 and CD08 transactions. A SOR must send the entire AAMVA Code Dictionary (ACD)²² history when responding to a CSOR or history request.

When the SOR receives an S2S SG message for the driver, the SOR must respond with the current CDL status and must not include any details of Clearinghouse in-State withdrawal in the CDLIS DHR.

When the SOR receives an S2S SB message, for the driver, the SOR must respond with the current CDL status and history but must not include any details of Clearinghouse in-State withdrawal in the CDLIS DHR.

²² The ACD is a standardized set of three-character codes used to identify either a type of conviction or the reason for a withdrawal of driving privileges. The ACD provides a single list of all codes that all the jurisdictions can understand and removes the need for a jurisdiction to map their laws and rules to the laws and rules of every other jurisdiction.

When a SOR receives a CSOR request, or SD message for the driver, States must refer to the procedures outlining OSOR and NSOR responsibilities outlined in update 15.

18. An update to the procedures set out for SDLAs to follow when a driver applies for reinstatement was included in the SPM (version c.0). Additionally, AAMVA incorporated FMCSA's guidance requiring SDLAs to have a process in place to ensure the driver is not prohibited from operating a CMV due to a Clearinghouse violation prior to reinstatement. To comply with this requirement, the jurisdictions may perform a Clearinghouse check or maintain records of notifications received from the Clearinghouse.

19. Procedures were also added for the jurisdictions to perform a Clearinghouse query on the driver prior to issuing, reinstating, renewing, upgrading, or transferring a CDL or CLP. When an individual applies for a CDL or CLP, the jurisdictions must initiate a search inquiry in CDLIS, the National Driver Registry,²³ and the Clearinghouse no earlier than 24 hours prior to issuance. This search process confirms that no matches already exist for an individual, and whether a violation has been recorded. The jurisdictions must also initiate a 10-year history check for a new CLP or CDL applicant. The PDPS State Procedures Manual provides more detail on conducting and recording the 10-year history check.

Additional procedures also apply to when a driver applies for reinstatement of a CDL or CLP. This may occur when a SOR withdraws the driver's CDL or CLP and the driver applies for reinstatement at the end of the withdrawal period. After being reinstated, the driver needs to apply for a new license, and the jurisdiction must follow procedures to complete a search inquiry (as described above) and refer to the added

²³ The National Driver Registry is a central repository for collecting, maintaining, and distributing information of all drivers whose driving privileges were suspended, revoked, or denied by a State due to a Clearinghouse violation.

documentation (the PDPS State Procedures Manual) for more detail about conducting the 10-year history check.

The jurisdictions must also conduct a check following the same procedures when a driver applies for a renewal of their CDL or CLP, using the additional PDPS documentation to conduct and record the 10-year history check. The same process applies to drivers changing the jurisdictions if they have not completed the 10-year history check.

Additional procedures were updated to establish rules for managing and maintaining driver records in the MPR and DHR. In accordance with Federal regulations, a DHR and associated MPR are required for three types of U.S. drivers. The first type of driver is a current CDL or CLP holder, the second is an individual who has previously held (but no longer holds) a CDL or CLP (and data retention requirements²⁴ have not been met), and the third is a non CDL or CLP holder who has been convicted of a violation (and data retention requirements have not been met). The SOR is responsible for maintaining the MPR and DHR for each of its drivers and ensuring the records are complete and accurate. The SOR cannot delete the MPR of a former or non-CDL or CLP holder until:

- 1- 1 year has passed since CDL or CLP expiration;
- 2- The driver is reported deceased or the driver's license has been downgraded to non-commercial; or
- 3- All DHR retention requirements are met.

The SOR will delete a MPR based on whichever period is greater. The ACD provides additional detail on retention requirements for convictions²⁵ and withdrawals, as well as retention requirement details. The SOR may also use this SPM (version c.0) to reevaluate

²⁴ Retention requirements are the time periods that a jurisdiction must keep specific types of data, such as conviction data.

²⁵ The "ACD conviction" is an adjudication of guilt for a traffic-safety or Federally mandated violation, as defined by FMCSA. The ACD is available on the internet at <https://www.aamva.org/technology/technology-standards/acd>.

whether to continue maintaining the record of a deceased driver after 10 years or more have passed since the driver was reported deceased.

20. Procedures were added for performing a Clearinghouse query when a driver applies for the initial issuance or renewal of a hazardous materials endorsement. In such cases, the jurisdictions must submit search requests and are provided with the latest version of the SPEXS System Specification document as a guide to aid them in conducting a verification query using the CDLIS CS. The jurisdictions are also provided guidance on how to proceed based on the driver's search results in the Clearinghouse, as described in the previous SPM (version c.0) updates.

21. Procedures were added for the jurisdictions to perform a Clearinghouse check to determine the driver's eligibility prior to transferring a CDL. This includes conducting a search inquiry on a driver and determining a course of action based on the results of the Clearinghouse check, as described in the previous SPM (version c.0) updates. The SPEXS System Specification manual provides additional information on conducting a search in CDLIS.

22. A new section was added to include procedures to evaluate if matching records exist for an applicant in the Clearinghouse, and whether those are in fact associated with the applicant. If a Clearinghouse query "returns a record," this indicates a violation prohibiting the driver from operating a CMV may or may not be found. If a record is found, the CDL or CLP applicant is considered a "match." In this case, the jurisdictions must follow guidance for evaluating Clearinghouse results, as described in previous SPM (version c.0) updates. Additionally, the jurisdictions must confirm that the record is associated with the applicant. The jurisdictions are also provided guidance for maintaining the driver's record if the individual moves to another jurisdiction. If a record is not found, the applicant is "not returned as a match."

23. An update was also added for the jurisdictions when no match is found for a driver in the Clearinghouse, CDLIS, or PDPS. If a violation record is not found in the Clearinghouse, the applicant is “not returned as a match.” In that case, a jurisdiction can issue a CDL. In addition, the jurisdiction must add the driver to CDLIS within a 10-day period beginning the date of license issuance, per §§ 383.73(h) and 384.207(a). The jurisdictions are provided guidance on using the SPEXS system to aid in utilizing CDLIS.

If no matches are returned from the verification inquiry in CDLIS, there is no error in CDLIS. The fact that the driver is requesting renewal indicates the driver should have an MPR on the CDLIS CS. The jurisdictions must contact the AAMVA operations help desk for assistance in determining why this situation occurred. No matches from PDPS indicates there are no problems with the driver. A no match from the Clearinghouse for a driver indicates there are no Clearinghouse violations that prohibit the driver from operating a CMV.

If the search inquiry or verification inquiry transactions return no matches from CDLIS for the driver, there is an error in CDLIS. The fact that the driver is requesting a CSOR indicates that the driver should have an MPR on the CDLIS CS. The jurisdictions must contact AAMVA operations help desk for assistance in resolving this situation.

24. Procedures were added for SDLAs to follow when a State performs an in-State withdrawal due to a Clearinghouse violation based on lack of compliance with the State’s law or policies. This section includes three main procedures. The first procedure applies to the OSOR when the DHR only consists of an open-state withdrawal due to a Clearinghouse violation. The second procedure applies to the OSOR when the DHR includes an open in-State withdrawal due to a Clearinghouse violation along with other open convictions and/or withdrawals. The final procedure applies to the NSOR if a Clearinghouse violation is found.

In the third instance mentioned above, the SOR must use a State native code, which is only used for State violations, to perform the Clearinghouse in-State withdrawal. This type of withdrawal must not be transmitted in the CDLIS DHR. The jurisdictions performing these withdrawals must downgrade the CDL by removing the commercial driving privilege by changing the commercial status on the CDLIS driver record from LIC to a minimum of ELG for CDL holders, and similarly changing the permit status from LIC to a minimum to ELG for CLP holders.

The items below describing updates number 25 and 26 were made pursuant to the EEE final rule and will take effect beginning August 22, 2024. The EEE final rule codifies the statutory requirement for SDLAs to implement a system and practices for the exclusively electronic exchange of DHR information through CDLIS. This includes the posting of convictions, withdrawals, and disqualifications.

25. Updates were made to the procedures requiring the State of conviction (SOC)²⁶ or State of withdrawal (SOW)²⁷ to work with the SOR to ensure the timely posting of convictions and withdrawals when received outside CDLIS. In all cases, the jurisdictions must ensure convictions are reported to the SOR within time frames set out in §§ 384.208 and 384.209. The SOC must report convictions for out-of-State drivers, including failures of out-of-State drivers to appear, pay, or comply, within 10 days of the conviction date. The SOR has 10 days from the receipt date of an out-of-State conviction to post the conviction to the driver's record. The SOR has 10 days from the conviction date to post an in-State conviction. With the exception of "W00"²⁸ withdrawals, the SOR must record all withdrawals received from another jurisdiction on the CDLIS DHR. Additionally, the jurisdictions have the ability to contact the AAMVA help desk for assistance.

²⁶ The SDLA jurisdiction which convicts a driver and maintains the original record of the conviction.

²⁷ The SDLA jurisdiction which withdraws a driver and maintains the original record of the withdrawal.

²⁸ W000 is the code used to indicate a withdrawal.

26. The procedures requiring the OSOR to work with the NSOR to ensure the timely posing of convictions and withdrawals when received outside CDLIS were updated within the 10-day timeframe described above. If an OSOR receives an out-of-State conviction or withdrawal²⁹ outside of CDLIS for a driver with a CDLIS driver record, the OSOR and SOR or SOW must work together to ensure the conviction or withdrawal is posted promptly on the CDLIS driver record. A second update directs either the OSOR, NSOR, SOC, or SOW to request assistance from AAMVA's help desk, if necessary.

VII. SEVERABILITY

Section 206 of MCSA (Pub. L. 98-554, title II, 98 Stat. 2832, 2834, codified at 49 U.S.C. 31136) directed the Secretary to regulate CMVs and the drivers and motor carriers that operate them. FMCSA is further required by statute to maintain an information system that serves as the clearinghouse and depository of information about the licensing, identification, and disqualification of operators of CMVs (49 U.S.C. 31309). CDLIS is the information system that serves that function.

The purpose of this rulemaking is to incorporate by reference version c.0 of the AAMVA SPM outlining guidance on the use of CDLIS. The provisions within the SPM (version c.0) are intended to operate holistically in addressing a range of issues necessary to ensure compliance with the information system procedures of the commercial driver's license program. However, FMCSA recognizes that certain provisions focus on unique topics. FMCSA finds that the various provisions within the SPM (version c.0) would be severable and able to operate functionally if one or more provisions were rendered null or otherwise eliminated. The remaining provision or provisions within the SPM (version c.0) would continue to operate functionally if any one or more provisions were

²⁹ Out-of-State convictions and withdrawals include the fifty States and the District of Columbia.

invalidated and any other provision(s) remained. In the event a court were to invalidate one or more of the SPM's unique provisions, the remaining provisions should stand.

VIII. SECTION-BY-SECTION ANALYSIS

Part 384

Section 384.107. The Agency would revise paragraph (b) to incorporate by reference version c.0 of the CDLIS SPM.

Section 384.301. The Agency would add, as a conforming amendment, a new paragraph (p) specifying that the State must comply with the requirements of this rule by August 22, 2024.

IX. REGULATORY ANALYSES

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), E.O. 14094 (Modernizing Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and E.O. 14094 (88 FR 21879, Apr. 11, 2023) Modernizing Regulatory Review. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563 and amended by E.O. 14094 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

This proposed rule updates the “American Association of Motor Vehicle Administrators, Inc. Commercial Driver’s License Information System State Procedures Manual, Version c.0” manual. Specifically, it includes changes introduced to the FMCSRs as a result of the EEE and DACH II final rules. The proposed rule solely

defines processes and procedures which ensure that other regulations are uniformly implemented and imposes no new regulatory requirements. The rule would impose no new costs, and any benefits that would result from it are expected to be de minimis.

B. Congressional Review Act

This rulemaking is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).³⁰

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,³¹ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprise small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

When an Agency issues a proposed rule, the RFA requires the Agency to “prepare an initial regulatory flexibility analysis” that will describe the impact of the proposed rule on small entities (5 U.S.C. 604(a)). Section 605 of the RFA allows an agency to certify a rule, instead of preparing an analysis, if the rule is not expected to have a significant impact on a substantial number of small entities. This rulemaking incorporates by reference the September 2023 edition of the AAMVA CDLIS SPM (version c.0). The

³⁰ A *major rule* means any rule that the OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 802(4)).

³¹ Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

changes to the 2023 edition of the AAMVA CDLIS SPM (version c.0) from the 2013 edition are intended to ensure clarity in the presentation of the SDLA conditions and are generally editorial or ministerial. As noted above, FMCSA does not expect the changes made in the 2023 edition of the AAMVA CDLIS SPM (version c.0) to impose new costs or to result in quantifiable benefits, as it imposes no new regulatory requirements. The editorial and ministerial changes that would result from this proposed rule apply to SDLA processes and procedures; SDLAs are not small entities. Consequently, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under FOR FURTHER INFORMATION CONTACT.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy

regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$192 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2022 levels) or more in any 1 year. Though this NPRM would not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result.

F. Paperwork Reduction Act

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

FMCSA has determined that this rulemaking would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. Privacy

The Consolidated Appropriations Act, 2005,³² requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This NPRM would not require the collection of personally identifiable information (PII).

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,³³ requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rulemaking. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA was adjudicated by DOT's Chief Privacy Officer on Jan. 04, 2024.

I. E.O. 13175 (Indian Tribal Governments)

This rulemaking does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. National Environmental Policy Act of 1969

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and determined this action is

³² Public Law 108-447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

³³ Public Law 107-347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraphs 6(s) and (t) of the order (69 FR 9703). The categorical exclusions in paragraphs 6(s) and (t) cover regulations regarding the CDL and related activities to assure CDL information is exchanged between States. The proposed requirements in this rule are covered by these CEs.

K. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rulemaking can be found in the Abstract section of the Department's Unified Agenda entry for this rulemaking at <https://www.reginfo.gov/public/do/eAgendaMain>.

List of Subjects in 49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug Abuse, Highway safety, Incorporation by reference, and Motor carriers.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR part 384 as follows:

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

1. The authority citation for part 384 continues to read as follows:

Authority:49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

2. Revise § 384.107 to read as follows:

§ 384.107 Matter incorporated by reference.

(a) *Incorporation by reference.* Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at FMCSA and at the National Archives and Records Administration

(NARA). Contact FMCSA at the Department of Transportation Library, 1200 New Jersey Ave. SE, Washington, DC 20590–0001; (202) 366–0746 . For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov. The material may be obtained from the sources in the following paragraph of this section.

(b) The American Association of Motor Vehicle Administrators (AAMVA), 4401 Wilson Boulevard, Suite 700, Arlington, VA 22203; (703) 522–1300; www.aamva.org.

(1) “Commercial Driver’s License Information System (CDLIS) State Procedures Manual,” Version c.0, September 2023; approved for §§ 384.225(f) and 384.231(d).

(2) [Reserved]

3. Amend § 384.301 by adding paragraph (p) to read as follows:

§ 384.301 Substantial compliance – general requirements.

* * * * *

(p) A State must come into substantial compliance with the requirements of subpart B of this part, which is effective as of [EFFECTIVE DATE OF FINAL RULE], as soon as practicable, but not later than August 22, 2024.

Issued under authority delegated in 49 CFR 1.87.

Sue Lawless,

Acting Deputy Administrator.

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