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FMCSA Extends Waiver for CDL and CLP Holders

Effective December 1, 2021, the Federal Motor Carrier Safety Administration (FMCSA) extended a [waiver](#) from some regulations that apply to interstate and intrastate drivers that operate commercial motor vehicles that expired on November 30, 2021. With the extension, this waiver is in effect until February 28, 2022, unless terminated sooner.

The extension is issued in response to COVID-19 outbreaks and pertains to holders of commercial driver's licenses (CDL) and commercial learner's permit (CLP) holders, as well as other interstate drivers operating commercial motor vehicles (CMVs). Because of the effects of COVID-19 and the impact on the pace of return to normal customer service levels, many States continue to have backlogs and affected operations of the Agencies that issue Driver Licenses. Additionally, many medical providers have adjusted to dedicate resources to the COVID-19 response, resulting in the cancelled scheduled appointments for physical examinations that are required for Federal Motor Carrier Safety Regulations (FMCSR) compliance. With the National Emergency declaration under 42 U.S.C. § 5191(b), and the public need for transportation of supplies and equipment deemed essential for addressing the outbreaks, the public interest in issuing the waiver is great.

FMCSA Regulatory Provisions Waived

The waiver will enable the continued transportation of goods to address the COVID-19 situation and is in furtherance of the public interest. This waiver does the following:

- Extends until February 28, 2022 the maximum period of CDL validity by waiving 49 CFR 383.73(b)(9) and 383.73(d)(6) for CDLs due for renewal on or after March 1, 2020.
 - Extends the Eight (8) Year from Date of Issuance Expiration period

- Extends until February 28, 2022 the maximum period of CLP validity by waiving 49 CFR 383.73(a)(2)(iii) and 383.25(c) for CLPs that are due for renewal on or after March 1, 2020, without requiring the CLP holders to retake the general and endorsement knowledge tests.
 - Extends the One Year Retest requirement from Date of Issuance requirement for CLP
- Waives the requirement under 49 CFR 383.25(e) that CLP holders wait 14 days to take the CDL skills test.
- Waives the requirement under 49 CFR 391.45 that CDL holders, CLP holders, and non-CDL drivers have a medical examination and certification, provided that they have proof of a valid medical certification that was issued for a period of 90 days or longer and that expired on or after September 1, 2021.
- Waives the requirement under 49 CFR 383.71(h)(3) that, in order to maintain the medical certification status of “certified,” CDL or CLP holders provide the State Driver Licensing Agency (SDLA) with an original or copy of a subsequently issued medical examiner’s certificate, provided that they have proof of a valid medical certification that expired on or after September 1, 2021.
- Waives the requirement under 49 CFR 383.73(o)(2) that the SDLA change the CDL or CLP holder’s medical certification status to “not certified” upon the expiration of the medical examiner’s certificate or medical variance, provided that the CDL or CLP holders have proof of a valid medical certification that expired on or after September 1, 2021.
- Waives the requirements under 49 CFR 383.73(o)(4) that the State Driver Licensing Agency initiate a CDL or CLP downgrade upon the expiration of the medical examiner’s certificate or medical variance, provided that the CDL or CLP holders have proof of a valid medical certification or medical variance that expired on or after September 1, 2021.
- In accordance with 49 CFR 383.23(a)(1) and 391.41(a)(1)(i), FMCSA continues to recognize the validity of commercial driver’s licenses issued by Canadian Provinces and Territories

and Licencias Federales de Conductor issued by the United Mexican States, in accordance with 49 CFR part 383, when such jurisdictions issue a similar notice or declaration extending the validity date of the medical examination and certification and/or validity of the corresponding commercial driver's license due to interruption to government service resulting from COVID-19

In states that exercise the discretion to adopt this waiver, there is no further action required by covered drivers to obtain the benefits provided thereby. Nor will a finding of noncompliance be issued against States for any incidences consistent with this waiver.

Terms, Conditions and Restrictions of the Waiver

There are restrictions associated with this waiver. The following are important exceptions to the Waiver and must be considered for whether the waiver is applicable to a certain driver in your fleet. It covers CDL holders, CLP holders and interstate non-CDL CMV drivers in participating States for the period beginning at 12:01 a.m. (ET) on December 1, 2021, continuing through 11:59 p.m. on February 28, 2022, unless terminated sooner.

- This waiver does not apply to a CDL or CLP holder if the driver's license expired before March 1, 2020.
- This waiver allows each State the discretion to extend validity periods for CDLs and CLPs, as well as waiver of the 14-day waiting period for taking the skills test. Confirmation of full waiver adoption by the applicable SDLA is recommended.
- This waiver does not apply to a CDL or CLP holder if the driver's privileges have been suspended or withdrawn for traffic offenses.
- Drivers claiming relief under this waiver from the requirement for a valid medical certificate must have proof of a valid medical certificate that expired on or after September 1, 2021 and carry a paper copy of their expired medical certificates.
- Drivers who cannot produce evidence of a prior medical certification that expired on or after September 1, 2021 are not covered under this waiver, including new drivers who have

never obtained a medical certification.

- Drivers who, since their last medical certificate was issued, have been diagnosed with a medical condition that would disqualify the driver from operating in interstate commerce, or who, since their last medical certificate was issued, have developed a condition that requires an exemption or Skill Performance Evaluation from FMCSA are not covered under this waiver.
- This waiver does not apply to medical examiner's certificates originally issued for less than 90 days.
- Notification to FMCSA of Accidents. Each motor carrier must notify FMCSA within 5 business days of an accident (as defined in 49 CFR 390.5), involving any CDL holder, CLP holder, or non-CDL driver operating under the terms of this waiver. See 49 CFR 390.15(b) (requiring maintenance of accident registry.) Notification shall be by email to MCPSD@DOT.GOV. The notification must include the following information:
 - Date of the accident;
 - City or town, and State in which the accident occurred, or closest to the accident scene;
 - Driver's name and license number;
 - Vehicle number and State license number;
 - Number of individuals suffering physical injury;
 - Number of fatalities;
 - The police-reported cause of the accident (if available at time of the report); and
 - Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations.
- FMCSA reserves the right to revoke this waiver for drivers' involvement in accidents, motor carriers' failure to report accidents, and drivers' failure to comply with the restrictions of this waiver.
- FMCSA intends to review the status of this waiver as of January 3, 2022 and may take action to terminate the waiver

in advance of February 28, 2022 should conditions warrant.

For more information, please contact [Eric Baker](#), [Michael Case](#), [Stacey Katz](#), [Tyler Biddle](#), or [Jeff Hunt](#), or any attorney on Frost Brown Todd's [Mobility & Transportation](#) industry team.

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