

IMPROVING TESTING AND LICENSING OF COMMERCIAL DRIVERS

Federal Motor Carrier Safety Administration

Report Number: MH-2002-093

Date Issued: May 8, 2002

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Memorandum

U.S. Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: ACTION: Audit Report on
Testing and Licensing of Commercial Drivers
Federal Motor Carrier Safety Administration
MH-2002-093

Date: May 8, 2002

From: Alexis M. Stefani 
Assistant Inspector General for Auditing

Reply to
Attn. of: JA-40

To: Federal Motor Carrier Safety Administrator

This report presents the results of our audit of Testing and Licensing of Commercial Drivers. An executive summary of the report follows this memorandum.

Our objectives were to determine whether the Federal Motor Carrier Safety Administration (FMCSA):

- has an adequate basis for relying on annual certifications from the States that they meet Federal testing and licensing requirements of the Commercial Driver's License (CDL) Program,
- oversight reviews are sufficient to identify weaknesses in State CDL programs regarding the testing of commercial drivers and the issuance of CDLs, and
- takes action to ensure that significant weaknesses disclosed by Federal oversight reviews or annual State certifications are corrected.

We found that existing Federal standards and State controls are not sufficient to defend against the alarming threat posed by individuals who seek to fraudulently obtain CDLs. FMCSA has recognized the need to strengthen standards for State testing and licensing of commercial drivers and has increased the depth and frequency of its oversight reviews of State CDL programs. However, more can be done to broaden the scope of the reviews and improve the basis for the States' annual certifications that their programs comply with Federal standards. Also, FMCSA can be more assertive in ensuring that problems identified in State programs are corrected and in using available sanctions when States do not correct significant problems.

A draft of this report was provided to FMCSA on March 8, 2002. In its comments, FMCSA agreed there is a need to strengthen the controls over testing and licensing of commercial drivers, concurred with the report's recommendations, and identified corrective actions that are planned or underway.

We appreciate FMCSA's positive comments. However, we are asking FMCSA to reconsider the corrective actions planned in response to our recommendation on using covert procedures for monitoring CDL examiners. FMCSA has agreed to issue a policy memorandum endorsing covert procedures as the preferred means of monitoring State and third-party CDL examiners. While this is a useful action, it does not meet the intent of our recommendation. The current magnitude of CDL fraud and the need to maintain the integrity of the National CDL Program call for required use of covert monitoring procedures for at least a portion of the CDL examiners. By taking this step, FMCSA can help ensure that CDL examiners are properly performing their duties even when the examiners do not know they are being monitored.

We also note that the successful implementation of many of the proposed corrective actions is contingent upon the completion of rulemaking actions. We have found that factors such as differing views on the substance of a proposed rule, requirements for cost/benefit analysis, and the need to have other entities review a proposed rule, can influence the time it takes to issue a rule. In July 2000, we reported that the Department of Transportation took an average of 3.8 years to issue significant rules. Thus, timely completion of the proposed rulemakings will require high-level attention within FMCSA and the Department.

We request that FMCSA provide written comments within 30 days with target completion dates for corrective actions identified in its comments that did not include this information. We also ask that FMCSA provide comments on our request to reconsider its planned actions. In instances where we are in agreement on the corrective actions and target completion dates are provided, the recommendations are considered resolved subject to the follow-up provisions of Department of Transportation Order 8000.1 C.

We appreciate the courtesies and cooperation of representatives from FMCSA, the States visited and contacted, and the American Association of Motor Vehicle Administrators during this audit. If you have any questions concerning this report, please contact me at (202) 366-1992 or Thomas J. Howard, Deputy Assistant Inspector General for Maritime and Highway Safety Programs, at (202) 366-5630.

Attachment

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cc: National Highway Traffic Safety Administrator

Executive Summary

Improving the Testing and Licensing of Commercial Drivers

Federal Motor Carrier Safety Administration

Report No: MH-2002-093

May 8, 2002

INTRODUCTION

Prior to the establishment of the National Commercial Driver's License (CDL) Program by the Commercial Motor Vehicle Safety Act of 1986, 19 States¹ allowed drivers to operate large trucks or buses without obtaining special licenses. Even States that had special license programs did not necessarily make drivers take a test in the same kind of vehicle they expected to operate. Further, commercial drivers often obtained licenses from several States, making it easy to hide bad driving records. States did not have to recognize commercial licenses issued by another State, creating problems for drivers who resided in one State and operated in another.

Federal Standards Implementing the National CDL Program

Under Federal standards, a driver must have a CDL to operate a commercial motor vehicle weighing 26,001 pounds or more, or hauling hazardous materials, or transporting at least 16 passengers, including the driver. Commercial drivers are limited to a single license that is issued by one State but recognized in all other States. States must ensure that commercial drivers successfully complete the appropriate knowledge tests and a driving test taken in the type of commercial motor vehicle they expect to operate. The Federal Motor Carrier Safety Administration (FMCSA), which was established under legislation passed in 1999, is responsible for ensuring that States comply with Federal standards. We estimate 470,000 new CDLs are issued each year.

New Security Concerns Following September 11, 2001

After the terrorist attacks on September 11, 2001, apprehension arose about the potential use of trucks in terrorist activities. The threat from hazardous materials gained increased attention after September 11, 2001, when the Justice Department released a list that included 22 people indicted for obtaining fraudulent CDLs to transport hazardous material. The indictments resulted from an investigation in Pennsylvania that started in 2000.

¹ States are defined in this report as the 50 States and the District of Columbia.

Due to concerns about terrorist actions involving hazardous materials delivered by truck, Congress passed legislation in October 2001 requiring that drivers seeking a hazardous materials endorsement to their CDL be subject to a background records check. In September 2001, FMCSA instructed its State offices to conduct visits to hazardous materials carriers to heighten sensitivity about security threats. One of the Department of Transportation's Direct Action Groups formed as a result of September 11th is examining the issue of credentials for all transportation workers, to include commercial drivers.

OBJECTIVES

This audit is the second in a series prompted by a request from the House Committee on Transportation and Infrastructure that we review the effectiveness of the CDL Program. Our previous work² showed that the objective of limiting drivers to one CDL has been largely achieved but problems existed with how States disqualified commercial drivers convicted for traffic violations.

This audit focused on the oversight of Federal standards for testing commercial drivers and issuing CDLs. Specifically, we sought to answer the following questions.

- Does FMCSA have an adequate basis for relying on annual certifications from the States that they meet Federal standards for testing and licensing commercial drivers?
- Are FMCSA's oversight reviews sufficient to identify weaknesses in State CDL programs regarding the testing of commercial drivers and the issuance of CDLs?
- Does FMCSA ensure that significant weaknesses disclosed by Federal oversight reviews or annual State certifications are corrected?

RESULTS IN BRIEF

Existing Federal standards and State controls are not sufficient to defend against the alarming threat posed by individuals who seek to fraudulently obtain CDLs. Since its establishment as an Operating Administration in 2000, FMCSA has recognized the need to strengthen standards for State testing and licensing of commercial drivers. However, FMCSA should translate its awareness of the need for stronger standards into tangible proposals that will tighten controls and ensure consistency in State processes for testing and licensing commercial drivers.

FMCSA has improved its oversight of State programs for testing and licensing commercial drivers by increasing the depth and frequency of its oversight reviews

² "Disqualifying Commercial Drivers," Report Number MH-2000-106, June 30, 2000.

of State CDL programs. However, more can be done to broaden the scope of the reviews and improve the basis for the States' annual certifications that their programs comply with Federal standards. Also, FMCSA can be more assertive in ensuring that problems identified in State programs are corrected and in using available sanctions when States do not correct significant problems.

Specific areas discussed in this report follow.

- **Since 1998, suspected fraud in the testing and licensing of commercial drivers has been identified in 16 States.** The largest Federal investigation of CDL improprieties identified over 900 drivers in Illinois and Florida who potentially obtained fraudulent licenses and transferred to other States. In 2000, FMCSA alerted our investigators and Georgia State authorities to a third-party examiner accused of illegally selling over 500 CDLs. Criminal investigations of CDL fraud carried out by our office and other law enforcement agencies show that third-party examiners, non-State employees who can administer driving tests, have been particularly susceptible to fraud.
- **Federal standards are not sufficient to address how States should verify the eligibility of CDL applicants and what training and qualifications should be provided to CDL examiners.** For example:
 - Only 4 of the 13 States we visited had laws requiring applicants to demonstrate that they are citizens or legally present in the United States. Only 1 of the 13 States required proof of State residency. Neither requirement is included in Federal CDL standards.
 - States are not required to verify Social Security numbers against the Social Security Administration records, although a system is available to make this verification.
 - In 5 of 13 States visited, State CDL examiners are not required to hold CDLs themselves, nor is this required by Federal standards.
- **Annual certifications by the States that their CDL programs comply with Federal standards are not supported by sufficiently comprehensive audits or reviews.** Other than conducting inspections of their third-party testers, none of the 13 States we visited conducted audits or reviews to support their annual certifications. More rigorous State self-assessments of their overall CDL programs would increase the opportunity for early correction of program weaknesses.
- **While FMCSA has improved the frequency and depth of its oversight reviews of individual States, more can be done to improve the quality of the reviews and identify systemic problems.** For example:

- FMCSA did not routinely monitor data on licensing transactions. Our monitoring of data showed that officials in one State did not enter data on 30,000 new commercial drivers in the national database for *20 months*, although Federal standards require States to report each new CDL issued within *10 days*.
- The State-by-State approach of conducting oversight reviews does not facilitate the identification of nationwide problems, such as lax oversight of third-party testers. Expanding the scope of Federal reviews to include multi-State assessments of specific areas would enhance the identification of systemic problems and could prompt revisions to existing standards.
- **Past follow-up on the status of prior State problems has not been adequate, and FMCSA should use sanctions when States fail to take corrective action.** FMCSA does not have information on the current status of corrective actions for about half of the testing and licensing problems identified in previous oversight reviews of State programs. Ensuring the timely correction of problems disclosed by oversight reviews and using available sanctions when States fail to correct significant problems would help ensure that enhanced oversight leads to permanent improvements in the National CDL Program. For repeat instances of significant weaknesses in a State CDL program, FMCSA should ensure that testing and licensing privileges be suspended in whole or in part within the State until corrective action is taken.

In responding to a draft of this report, FMCSA agreed that corrective actions are needed, concurred with the report's 15 recommendations, and provided a detailed description of actions planned or underway to address the problems identified. We are asking FMCSA to reconsider the corrective actions planned in response to our recommendation on using covert procedures for monitoring CDL examiners. Although FMCSA has agreed to endorse covert procedures for monitoring State and third-party CDL examiners, the magnitude of fraud in the program warrants the required use of covert procedures for at least a portion of the examiners.

PRINCIPAL FINDINGS

CDL Fraud Is a Significant Problem

A significant problem currently facing the National CDL Program is fraud in the testing and licensing of commercial drivers. Suspected criminal activity dealing with CDLs has been identified in 16 States since 1998.

The largest Federal investigation of CDL improprieties—Operation Safe Road—was initiated in Illinois in 1998. The investigation, which included investigators from the Department of Transportation’s Office of Inspector General, the Federal Bureau of Investigation, and other Federal offices, as well as State investigators, extended to Florida when CDL applicants from Illinois traveled there to fraudulently obtain CDLs.

The situation in Illinois and Florida had nationwide impact. Investigators identified over 200 drivers who potentially obtained fraudulent licenses in Illinois and then transferred their licenses to 20 other States, and approximately 700 other suspect drivers from Florida who transferred licenses to 32 other States. As of December 2001, 39 individuals were convicted as a result of Operation Safe Road, including employees at State testing facilities, other State Government officials, and instructors at driving schools.

In 2000, FMCSA alerted our investigators and Georgia authorities to a third-party examiner, subsequently arrested, for his alleged involvement in the illegal sale of over 500 CDLs. In the same year, an investigation by Federal and State officials in North Carolina resulted in an indictment against a third-party examiner accused of fraudulently certifying that he had tested over 60 individuals who received CDLs. In 2001, Federal and State investigators in Ohio uncovered a third-party examiner who improperly administered the CDL driving test to over 200 applicants. The examiner’s test lasted 10 minutes versus the 60 minutes that Ohio’s test is supposed to take.

As a consequence of the fraudulent testing and licensing of drivers, highway safety has been compromised. For example, one commercial driver who fraudulently obtained his CDL from an Illinois State inspection station was involved in an accident that killed six children. FMCSA reports that at least nine deaths have occurred in accidents involving drivers who illegally obtained their CDLs in Illinois. Across the country, State officials have now retested thousands of CDL holders to be certain they are qualified to hold CDLs.

Revisions and Clarifications to Federal Standards Will Enhance the National CDL Program

Federal standards for testing and licensing commercial drivers provide a framework for State CDL programs and set the parameters for FMCSA oversight. In the course of our work, we became aware of several areas where Federal standards should be revised or clarified to ensure that applicants are eligible for CDLs and to provide needed consistency among State programs. These areas include verifying the applicant’s legal presence in the United States, requiring proof of the applicant’s State residency, verifying the applicant’s Social Security information, establishing qualifications for CDL driver examiners, regulating the

issuance of CDL learner's permits, and setting guidelines for English language proficiency.

FMCSA recognizes there are gaps in Federal standards for testing and licensing commercial drivers, and it discussed specific concerns about validation of State residency, Social Security verification, English language proficiency, and CDL learner's permits in a report released in October 2000 or in State oversight reviews released in 2001. However, FMCSA has not proposed changes in Federal standards that are needed to correct the problems.

We recognize that States may be taking unilateral action to strengthen their CDL programs, particularly in response to the events of September 11, 2001. We also acknowledge the difficulties involved with establishing Federal standards, particularly in controversial areas such as legal presence in the United States and English language proficiency. Such efforts will require coordination with those undertaking legislative or regulatory efforts to improve the overall security of driver licensing and identification. However, the current situation requires that FMCSA take action in the following areas to translate its awareness of problems into tangible proposals for Federal standards that can be implemented.

- **Legal Presence in the United States.** Federal standards do not require CDL applicants to demonstrate they are citizens of the United States or legally present in the United States, and the States' requirements in this area vary. Only 4 of the 13 States we visited had laws requiring applicants for driver's licenses to demonstrate that they are citizens of this country or legally present in the United States. Demonstrating legal presence in the United States should be a requirement to obtain a CDL.
- **State Residency Requirements.** Federal standards do not require CDL applicants to show proof of State residency. At the time of our review, only 1 of the 13 States we visited required proof of residency during the CDL application process. Federal standards do, however, require the applicant to be domiciled (have his or her permanent home and principal residence) in the State issuing the CDL. Only 4 of the 13 States we visited had laws that met the domicile requirement. Federal standards should be adopted to require the applicant to demonstrate residency before the State issues a CDL.
- **Social Security Verification.** Federal standards require CDL applicants to have a Social Security number. States are not required, however, to verify Social Security numbers against the Social Security Administration records, although a system is available to make this verification. Only 3 of the 13 States we visited performed such checks. Recent FMCSA oversight reviews identified six States that were not verifying Social Security numbers, but no standard exists for enforcing the issue. Verification of an applicant's Social Security number should be a Federal requirement.

- **Driver Examiner Qualifications.** Federal standards do not include specific training or qualification requirements for CDL driver examiners. A national association recommended a minimum of 40 hours of training for driver examiners, and 10 of the 13 States visited met or exceeded this standard. Five States did not require State CDL examiners, including those who administer the driving tests, to hold CDLs. By establishing training and qualification standards, FMCSA can ensure consistent skill and knowledge for this critical participant in the testing process.
- **Learner's Permits.** Federal standards currently allow learner's permit holders who have not passed a CDL knowledge test to operate a commercial vehicle of any size, provided they are accompanied by a CDL holder. Since States are not required to record the learner's permit on the central database for CDLs, individuals could obtain permits in more than one State, thus defeating the goal of limiting drivers to a single commercial license. FMCSA has drafted, but not released for comment, a proposed regulation that would require a CDL applicant to have a passing score on the knowledge test before a learner's permit could be issued. This would ensure that individuals operating commercial vehicles using learner's permits at least meet minimum knowledge requirements for their safe operation.
- **English Language Proficiency.** Federal standards related to English language proficiency for commercial drivers require clarification. The Federal standard for motor carrier safety requires carriers to ensure that their commercial drivers are able to read and speak the English language sufficiently to converse with the general public, understand highway and traffic signs, respond to official inquiries, and make reports and records. However, the Federal standard on CDL testing and licensing does not place any requirement on the States to test for language proficiency.

FMCSA guidance allows States to administer the CDL knowledge test in foreign languages. Eight of the 13 States visited allowed the use of interpreters for the knowledge tests, although various restrictions on their use were in place. Driving tests were also administered in a foreign language by bilingual examiners in 2 of the 13 States we visited. Given the variations and the previously noted condition on enforcing residency requirements, the current situation allows individuals to obtain CDLs in a State where the language requirements are different, and then return to their home State, where they may be able to exchange their CDLs without retesting.

We estimate that 123,000 CDLs are transferred annually. Establishing performance-oriented English proficiency standards and an agreed to testing protocol would discourage license shopping across States and establish consistent, nondiscriminatory practices nationwide. FMCSA announced it was

considering a revision to the standard in 1997, but no draft or final standard has been issued.

FMCSA Needs to Strengthen Its Oversight of State CDL Programs

The main components of Federal oversight over the National CDL Program are annual State certifications that the State is in compliance with Federal standards, FMCSA's periodic oversight reviews of State CDL programs, and follow-up by FMCSA to ensure that identified problems are corrected. However, the annual State certifications are not supported by in-depth assessments performed by the States, and no such assessments are required. FMCSA's periodic oversight reviews have improved, but the scope of the reviews needs to be expanded, and oversight of third-party testers should be strengthened. Past follow-up efforts to ensure that the States take corrective action have been ineffective. FMCSA should be willing to use sanctions when necessary to ensure that enhancements to FMCSA's oversight reviews translate into permanent improvements in the CDL testing and licensing process.

Annual State Certifications Are Not Supported by Reviews or Monitoring Procedures, and None Are Required by FMCSA

The requirement that States annually certify substantial compliance with all Federal standards was established in 1994. In certifying that the State meets the testing standard, the State is affirming that the "demonstrable combined effect" of the State's regulations, administrative procedures, organizational structures, control mechanisms, and resource assignments are sufficient to ensure that no person is authorized to operate a commercial vehicle unless the person passes the proper knowledge and driving tests.

When this requirement was instituted, Federal officials set the date for a State's annual certification at a point in time that would "*enable the State to conduct a thorough review of its compliance.*" However, there are no guidelines on what would constitute a thorough review.

With the exception of inspections or audits related to third-party testing, we did not find any State reviews to support the certifications at the 13 States we visited. The 10 States that used third-party testers each had programs to conduct annual on-site inspections of third-party testers. Also, two States conducted audits that focused on certain aspects of third-party testing. There were no other audits or documented reviews conducted by the States that could serve as a basis for the conclusions provided to FMCSA in the annual certifications.

A further deficiency in the State certifications is that the States are not required to and did not generally adopt procedures for monitoring data specific to CDL testing and licensing. For example, only 2 of 13 States visited could monitor the driving

tests conducted by a specific examiner on a State-wide basis. Such monitoring can be used to compare the total number of new licenses associated with a driver examiner to the number reported to his or her superiors or to the number of tests that it would be feasible to administer in a given time period. According to an FMCSA official, this type of monitoring would have caught the CDL fraud in Georgia, which only came to light through an informant. Other indicators that could be monitored include the percentage of passing scores being given by examiners across the State. Michigan used pass/fail rates from third-party examiners as a means of focusing third-party reviews.

Federal Oversight Reviews Have Improved but the Scope Should Be Expanded

Between 1994 and 1999, each State CDL program received a Federal oversight review³ about once every 3.5 years. The reviews focused on whether the States had established laws to implement the Federal CDL standards. However, the reviews did not include tests designed to determine the adequacy of State systems, and less than half (41 percent) of the reviews in States with third-party testers included visits to third-party facilities.

Since the establishment of FMCSA in January 2000, the oversight reviews have improved. Between September and November 2001, FMCSA issued its first 10 State oversight reports based on reviews conducted in 2000 and early 2001. The reports show that FMCSA enhanced the depth of Federal oversight reviews. For example, the recent reports document testing of State computer systems performed by a contractor, discuss procedures in place at States to control potential abuse such as unauthorized overrides for computer record checks, and show that reviewers have visited testing facilities in all States reviewed. The frequency of oversight reviews conducted also increased after declining in 1999, although as of February 2002 final reports were pending on 22 reviews initiated in 2000 or 2001.

To bring about permanent improvements, FMCSA will need to make further changes in the way oversight is done. FMCSA's current oversight system does not include functional reviews, monitor key data on CDL licensing transactions, or systematically assess the adequacy of controls in place within the States. Improved Federal oversight of third-party testers is also needed. Key areas that FMCSA needs to address are discussed below.

Performing Nationwide Functional Reviews. FMCSA officials stated they plan to conduct nationwide reviews targeted at specific functions, such as oversight of third-party testers, but no such reviews have been scheduled or initiated. The

³ Between 1994 and October 1999, the Federal Highway Administration conducted CDL oversight reviews. The Office of Motor Carrier Safety, a new office within the Department of Transportation, assumed the function from October 9, 1999, until the establishment of FMCSA on January 1, 2000.

current oversight review process, which focuses on one State at a time, does not foster the identification and resolution of problems that involve multiple States and could be best addressed by nationwide action. For example, attempts to improve procedures for the verification of State residency are best addressed on a multi-State basis because, given the ability to transfer licenses among States, the tightening of residency requirements in one State alone is not sufficient if other States have retained less strict requirements. Also, such reviews allow for the timely consideration of an urgent problem in all States instead of addressing the problem over the 3-year cycle of individual State reviews.

Monitoring Key Data on CDL Transactions. Expanding the scope of FMCSA's oversight reviews to include regular monitoring of key data could provide an early warning of problems and lead to better self-monitoring by the States. The Commercial Driver's License Information System (CDLIS) generates routine management reports to show the volume of CDL transactions in each State. However, FMCSA has not monitored key data on CDL transactions provided in these reports. Monitoring of the data would enable FMCSA to identify areas for review.

For example, our analysis of CDLIS reports showed that one State had not entered identifying data on 30,000 new commercial drivers in the CDLIS for a *20-month period*, although Federal standards require States to report each new CDL issued within *10 days*. State officials took action to enter the drivers in the CDLIS when we alerted them to the situation.

Systematically Assessing the Adequacy of Program Controls. The compliance indicator FMCSA uses as a tool for determining State compliance with CDL standards should be improved. The compliance indicator does not include questions or tests designed to measure the implementation and sufficiency of Federal standards or the adequacy of controls established within the State's CDL testing and licensing processes. Consequently, the compliance indicator would not identify problems we found in four States we visited where controls were not sufficient to prevent an insider from fraudulently recording passing scores for knowledge and driving skills tests. Thus, licensing clerks could electronically enter passing results for knowledge and driving tests without the applicant taking or passing the tests. While no fraud was observed, controls were not in place to verify that test scores in the system agree with the documentation on the actual tests given to the applicants. We observed other States that had implemented this type of control. Exhibit C provides further examples of positive control practices we observed among the States visited.

Expanding the scope of FMCSA assessments of the States' control systems through an improved compliance indicator would help identify and correct control weaknesses such as those that allowed the issuance of fraudulent licenses

uncovered in recent investigations. The tool would also ensure that the attention to control weaknesses found in the latest FMCSA reviews is carried out in a consistent manner. FMCSA issued guidance to its field offices in July 2000 instructing them to “ascertain” that management procedures in the States are adequate to ensure CDL program integrity. Providing more detailed guidance on specific tests and questions for assessing controls would assist the field offices in consistently carrying out this directive.

Improving Oversight of Third-Party Testers. Overall, we found that the Federal standards for monitoring third-party testers are not fully implemented. The conditions under which States are permitted to carry out third-party testing are shown in the Figure. Nationwide, 39 States allow driver examiners employed by third-party testers to administer CDL driving tests.

Our on-site reviews and surveys showed that 23 States did not meet the Federal standards for monitoring third-party testers. Specifically, the 23 States did not either require State employees to annually take the driving skills test actually administered by each third-party tester, as if they were an applicant, or retest a sample of applicants already

tested by third parties. Nationwide, we estimate that about 3,900 driver examiners employed by third-party testers are not monitored properly.

The Federal standard on having State employees take the driving skills test as if they were an applicant does not specify whether the test should be taken covertly or overtly. Although covert testing is the control method FMCSA’s officials preferred, they did not convey this to the States. One of the 13 States we visited and 3 of the 29 States that we surveyed used routine covert testing to monitor third-party testers. Other States surveyed who reported meeting the monitoring requirement stated that they did so by retesting a sample of drivers who were examined by third-party testers and comparing the passing rates.

We found covert monitoring of examiners to be a useful oversight technique, as shown in the following examples.

Figure: Standards for Third-Party Testers

1. Tests given must be the same as State tests.
2. Agreement between third-party tester and the State:
 - Requires annual on-site inspections by State personnel.
 - Allows random inspections or audits without notice.
 - Requires third-party examiners to meet the same standards as State examiners.
 - **Requires State employees to annually take the test actually administered by third-party testers as if the State employee were a test applicant or requires that the State test a sample of drivers who were examined by third-party testers to compare pass/fail rates.**
 - Reserves to the State the right to take prompt and appropriate remedial action against third-party testers.
 - Ensures drivers tested by third parties provide proof of passing to the State.

- In Pennsylvania, between 1998 and 2001, 85 covert tests of third-party testers were conducted as part of a routine covert-testing program. Fourteen driver examiners employed by these third-party testers were removed from the State's testing program because they did not properly administer the driving tests.
- During our audit, Arkansas performed its first covert review of third-party testers. A State trooper took the driving tests at 3 of the 31 third-party testers in the State. At one tester, the trooper passed the driving test even though he did not point out brake and suspension items as required, or complete the required road course maneuvers. His driving test consisted mainly of a conversation on the trooper's Army experience. Arkansas took action to remove the testing privilege from this third-party tester. In addition, Arkansas sought to remove the testing privileges from the other two third-party testers based on deficiencies found during their covert reviews.

By eliminating ambiguity about the use of covert monitoring, FMCSA can ensure that third-party testers, who have responsibility for certifying that CDLs are given only to qualified drivers, are properly performing their duties.

Actions Are Needed to Correct Problems That Have Been Identified

Between 1994 and 1999, Federal oversight reviews identified 174 new or repeat findings in 46 States that dealt with testing and licensing problems. Overall, 51 (40 percent) of the 129 issues raised in the first round of reviews were resolved by the time of the next oversight review for those States, and another 16 (12 percent) were repeat findings in the next oversight review report. The resolution of the remaining 62 issues (48 percent) was not addressed in subsequent reports and not recorded in a tracking system.

For the 10 oversight reviews released after the establishment of FMCSA in January 2000, FMCSA identified 77 new findings across all areas. The problems identified in the reports include two States cited for not properly monitoring third-party testers and one State where computer checks showed that the State had failed to properly revoke licenses from 296 CDL holders. However, only 1 of the 10 reports addressed any of the findings from prior reviews.

FMCSA Headquarters instructed its field offices to monitor the States' progress in making corrective actions and conduct a follow-up review in a year to guarantee the correction of all issues at the 10 States. At this time, FMCSA Headquarters has accepted the States' plans to correct the problems identified and has not found any of the States in substantial noncompliance. A determination of substantial noncompliance would require the withholding of Federal highway funds.

FMCSA should ensure that the planned follow-up reviews track the status of corrective actions on its recommendations more completely than has been the case

in the past. Also, if the follow-up reviews show continued problems, FMCSA should take stronger action than its predecessors to ensure that corrective actions are taken. For example, FMCSA should insist that testing and licensing be suspended in whole or in part within the State until the State demonstrates that corrective action has been taken on significant problems.

FMCSA Should Use Sanctions When Necessary to Enforce Compliance and Promote Corrective Actions

Under Federal standards, States failing to correct significant CDL problems face the withholding of Federal highway funds. However, neither FMCSA nor its predecessors have withheld Federal highway funds to enforce compliance with CDL provisions. FMCSA did note that two States took action to correct long-standing problems when steps were initiated to withdraw funds.

Under the 1999 Motor Carrier Safety Improvement Act, the Secretary of Transportation has authority to prohibit a State from processing and issuing CDLs, and FMCSA may withhold Motor Carrier Safety Assistance Program (MCSAP) grant increases until substantial compliance is achieved. To ensure that improved oversight leads to real improvements, FMCSA should be prepared to use the available sanctions when necessary.

A willingness to use sanctions when necessary will also ensure that additional funding for State CDL programs leads to effective change. For fiscal year (FY) 2002, Congress appropriated approximately \$6 million in revenue aligned budget authority for State CDL program improvements and \$10 million for highway safety data improvements that impact the CDL program. FMCSA also reports that \$4 million in high priority MCSAP funds will be issued to the States in FY 2002 for CDL-related activities.

SUMMARY OF RECOMMENDATIONS

We are recommending that the Federal Motor Carrier Safety Administrator:

- Strengthen the CDL Program by issuing or clarifying Federal standards that address: legal presence requirements, residency requirements, Social Security number verification, driver examiner qualifications, learner's permit prerequisites, English language proficiency, and third-party monitoring techniques.
- Improve the Federal oversight process by prescribing requirements for annual State certifications, performing functional reviews of CDL-related problems across States, monitoring key testing and licensing data, developing tools for systematically assessing the adequacy of State controls, and promoting the

adoption of useful techniques such as monitoring driver examiners and conducting covert or unannounced field visits.

- Ensure that problems identified are corrected by issuing review reports in a timely manner, tracking and following up on corrective actions taken, and using sanctions when necessary to promote corrective actions.

MANAGEMENT COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

A draft of this report was provided to FMCSA on March 8, 2002. In its April 16, 2002 comments, FMCSA agreed corrective actions are needed, concurred with the report's 15 recommendations, and identified the actions planned or underway for each of the recommendations. The full text of FMCSA's comments is provided in the Appendix.

We appreciate the positive comments from FMCSA. However, the actions planned in response to our recommendation on the use of covert monitoring procedures do not address the intent of our recommendation. Although FMCSA has agreed to endorse covert procedures for monitoring State and third-party CDL examiners, we recommended that the use of covert procedures for monitoring at least a portion of the examiners be required. By taking this action, FMCSA can help ensure that CDL examiners are properly performing their duties even when the examiners do not know they are being monitored. Thus, we are requesting that FMCSA reconsider its planned actions.

We also note that the successful implementation of many of the proposed corrective actions is contingent upon the completion of rulemaking actions. We have found that factors such as differing views on the substance of a proposed rule, requirements for cost/benefit analysis, and the need to have other entities review a proposed rule, can influence the time it takes to issue a rule. In July 2000, we reported that the Department of Transportation took an average of 3.8 years to issue significant rules. Thus, timely completion of the proposed rulemakings will require high-level attention within FMCSA and the Department.

While FMCSA provided corrective actions planned or underway in response to the recommendations in this report, target completion dates are needed for nine of the recommendations. Therefore, we request that FMCSA provide written comments within 30 days containing these target completion dates as well as comments on our request for reconsideration of planned actions on the recommendation discussed above.

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CHAPTER 1: INTRODUCTION

Background

Prior to the establishment of the National Commercial Driver's License (CDL)¹ Program by the Commercial Motor Vehicle Safety Act of 1986 (the 1986 Act), 19 States² allowed drivers to operate large trucks or buses without obtaining special licenses. Even States that had special commercial license programs did not necessarily make drivers take a test in the same kind of vehicle they expected to operate. Further, commercial drivers often obtained licenses from several States, making it easy to hide bad driving records. States did not have to recognize commercial licenses issued by another State, creating problems for drivers who resided in one State and operated in another.

The 1986 Act limited commercial drivers to a single license that is issued by one State but recognized in all other States under reciprocity requirements. The law required the establishment of minimum Federal standards for the knowledge and driving skills required to operate a commercial motor vehicle. Federal standards implementing the legislation were issued between 1987 and 1994. The Federal Motor Carrier Safety Administration (FMCSA) is responsible for ensuring that the States comply with the Federal CDL standards.

The 1986 Act also established a nationwide information system for exchanging commercial driver-related data, the Commercial Driver's License Information System (CDLIS). AAMVANet, Incorporated (AAMVANet), a not-for-profit subsidiary of the American Association of Motor Vehicle Administrators (AAMVA), operates the CDLIS. The States must check CDLIS and another nationwide database—the National Driver Register (NDR)—before issuing a CDL and notify CDLIS when licenses are issued. The NDR, which is administered by the National Highway Traffic Safety Administration, is a computerized database of information about commercial and noncommercial drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations such as driving while impaired by alcohol or drugs.

Growth in CDL Population. Thousands of new CDLs are issued by the States each year, and the number of CDL holders has grown significantly. We estimate that the States issued about 470,000 new CDLs in 2000, and as of June 2001, 10.4 million CDLs were entered in CDLIS. This represents a 44 percent increase

¹ Under Federal standards, a commercial driver's license is required to operate commercial vehicles having a gross vehicle weight rating of at least 26,001 pounds, commercial vehicles hauling hazardous materials, or commercial vehicles transporting at least 16 passengers including the driver.

² States are defined as the 50 States and the District of Columbia.

from the 7.2 million CDL records in December 1994. We estimate that at least 123,000 CDL holders annually transfer their licenses to other States.

CDL Tests. All CDL applicants must successfully complete the appropriate knowledge tests and a driving test taken in the type of commercial motor vehicle they expect to operate. No uniform knowledge or driving test is prescribed in the Federal standards; rather, the States develop their own tests, which must be at least as stringent as the Federal standards.

The Federal standards for CDL knowledge tests require a general knowledge exam taken by all applicants and other specific exams that allow applicants to obtain an endorsement on their CDL for activities such as hauling hazardous materials. For the general knowledge exam, Federal standards require that applicants have knowledge of general areas such as the vehicle safety control systems (e.g., lights, horns, mirrors) and the relationship of cargo to vehicle control (e.g., steering could be affected by how a vehicle is loaded). Applicants must correctly answer at least 80 percent of the questions on the general knowledge tests to pass.

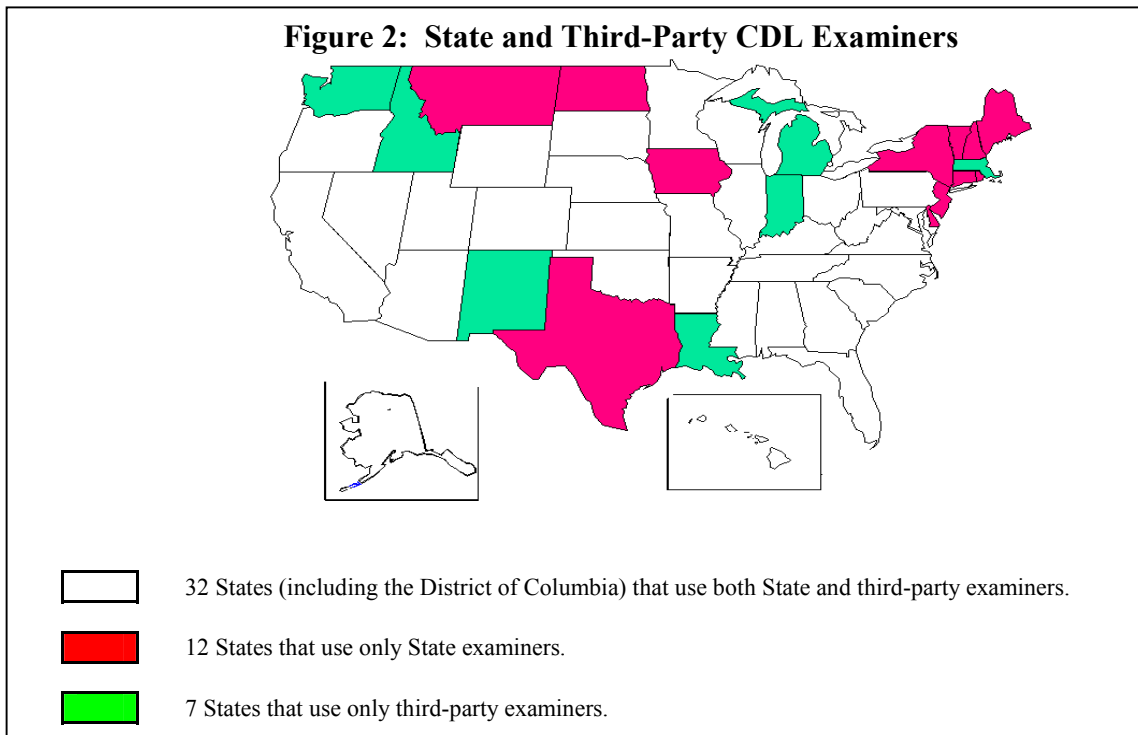
The Federal standards for CDL driving tests require the inclusion of three required skills, as shown in Figure 1. States determine their own specifications for passing the skills test.

Figure 1: CDL Driving Test Standards	
Required Skills	Federal Standards
Pre-Trip Inspection (Air brake skills)	Locate, identify, inspect, and check air brakes.
Basic Skills Test (Basic vehicle control skills)	Start, stop, and move the vehicle forward and backward in a safe manner.
Road Test (Safe driving skills)	Proper visual search methods to monitor traffic, vehicle condition, and other factors. Appropriate use of signals; speed control for weather and traffic conditions; and ability to correctly position the motor vehicle when changing lanes or turning.

The AAMVAnet has developed and distributed model knowledge and driving tests for the States to use, if they wish. These provide greater detail on the content of the tests than is contained in the Federal standards. However, Federal standards do not require the States to use the AAMVAnet models.

Third Parties May Administer Driving Tests. Only State government employees administer knowledge tests and issue CDLs. However, entities known as “third-party testers,” who are approved by the States under varying conditions, may administer the driving tests. Third-party testers include local governments,

school districts, private driver training schools, and other private companies. (The term third-party tester refers to the company or other entity that employs one or more driving examiners to conduct commercial driving tests.) Federal standards set forth conditions that the State must meet before third-party testing is allowed. Thirty-nine States use third-party testers and collectively issue about 370,000 new CDLs annually. Figure 2 shows the type of driver examiner used in each State.



State policies on who may be tested by third-party testers vary, as shown in the following examples.

- In California, the driver examiners employed by the 921 third-party testers are limited to testing employees of their own companies. State examiners test any CDL applicants and charge a fee.
- In Florida, driver examiners at about 450 third-party tester locations may test any CDL applicant, and State driver examiners also provide CDL tests. Third-party examiners may charge \$200 to \$250 for the driving test (which includes rental of a vehicle). State examiners do not charge for the test, but the applicant must supply the vehicle for the test.
- Michigan, at the time of our visit, used 108 third-party testers for all its CDL driving tests. The third-party testers set their own fee, which generally ranged from \$80 to \$150.

Determining State Compliance. Federal standards describe two mechanisms for determining State compliance with CDL standards. First, the State governor or an official designated by the governor must annually certify to the FMCSA Administrator that the State CDL program is in substantial compliance with the Federal standards. Second, FMCSA has authority to conduct oversight reviews of each State CDL program.

If FMCSA determines that a State is in substantial noncompliance, the 1986 Act gave the Federal Government the authority to withhold highway funds from the State as a way to enforce compliance. The 1999 Motor Carrier Safety Improvement Act (1999 Act) provided the Department of Transportation with the authority to use additional sanctions to enforce compliance. Under the 1999 Act, the Secretary of Transportation has the authority to prohibit a State from processing and issuing CDLs, and FMCSA may withhold Motor Carrier Safety Assistance Program grant funding increases until substantial compliance is achieved.

Objectives, Scope, and Methodology

This audit is the second in a series prompted by a request from the House Committee on Transportation and Infrastructure that we review the effectiveness of the CDL Program. The first audit in the series focused on actions leading to the suspension, revocation, or cancellation of a CDL previously issued to an individual.³ Our previous work showed that the objective of limiting drivers to one CDL has been largely achieved but that problems existed with how States disqualified commercial drivers convicted for traffic violations.

Objectives. This audit focused on the oversight of Federal standards for testing of commercial drivers and issuing CDLs. Our specific objectives were to determine whether:

- FMCSA has an adequate basis for relying on annual certifications from the States that they meet Federal testing and licensing requirements of the CDL Program,
- FMCSA’s oversight reviews are sufficient to identify weaknesses in State CDL programs regarding the testing of commercial drivers and the issuance of CDLs, and
- FMCSA takes action to ensure that significant weaknesses disclosed by Federal oversight reviews or annual State certifications are corrected.

Scope and General Audit Methodology. Overall, we accomplished the objectives by evaluating documentation on prior Federal oversight reviews, by

³ “Disqualifying Commercial Drivers,” Report Number MH-2000-106, June 30, 2000.

observing current oversight efforts, and by performing audit tests and reviews in 13 States. The audit tests included observation of testing and licensing processes during announced and unannounced visits to facilities, review of documentation (such as score sheets on driving tests and training records) associated with a random sample of examiners and CDL records at selected States, and interviews with officials from Federal and State Government and the private sector.

The 13 States we visited for reviews (listed in Figure 3) account for about 4.1 million or 40 percent of the CDL records maintained in CDLIS as of June 2001. While the selected States may not be statistically representative of all States, they represent a broad range of State CDL programs and generally illustrate the degree of oversight FMCSA is exercising over the CDL Program. Ten of the States (as

Figure 3: States Visited	
Arkansas*	Michigan*
California*	New Jersey
Florida*	New York
Kentucky*	North Carolina*
Louisiana*	Pennsylvania*
Maine	South Dakota*
Maryland*	
*Use third-party testers	

indicated by the asterisks in Figure 3) use third-party testers. At each State visited, we assessed controls used in 10 areas (listed in Figure 4). We supplemented the information obtained from the 13 States by observing an FMCSA review in process in Virginia, by surveying CDL officials to varying degrees in 38 other States via telephone, and by attending a nationwide symposium on the CDL Program held by FMCSA in March 2001.

Figure 4: Key Control Areas We Assessed in State Programs
<ul style="list-style-type: none"> • Ensuring Identity of Applicants • Establishing Residency • Checking Required Records • Testing Knowledge • Issuing Permits • Issuing Licenses • Training/Qualifications of Examiners • Conducting Driving Tests • Reviewing Third-Party Examiners • General Oversight

Key organizations covered in the audit include FMCSA Headquarters, selected State FMCSA offices, selected State motor vehicle headquarters, and selected testing and licensing facilities (both State and third party). A list of the over 100 activities visited or contacted is in Exhibit A.

The audit was conducted from June 2000 through February 2002 in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States and included such tests of internal controls as we considered necessary. We did the bulk of the audit work, including visits to the 13 States, prior to September 11, 2001. Further details on the audit methodology are in Exhibit B.

Prior or Ongoing Coverage

Prior Audits. No prior U.S. Department of Transportation, Office of Inspector General audits address testing and licensing of commercial drivers, and no General Accounting Office audits have addressed the area within the last 5 years.

Ongoing Study. An ongoing study, required under the *Transportation Equity Act for the 21st Century*, is reviewing CDL testing procedures to determine if they adequately reflect the knowledge and skills required for CDL drivers. Recommendations are expected from a committee with representatives from AAMVA, FMCSA, and the States. According to AAMVA, the committee should deliver a new CDL testing system by early 2003. Because of this ongoing review, we did not attempt to determine the elements that should make up the commercial driving skills test or knowledge tests but focused on the adequacy of procedures for administering knowledge and skills tests to CDL applicants and for issuing licenses.

CHAPTER 2: PROBLEMS WITH CDL FRAUD AND NEW SECURITY CONCERNS

CDL Fraud Is a Significant Problem

A significant problem currently facing the National CDL Program is fraud in the testing and licensing of commercial drivers. The largest Federal investigation of CDL improprieties named Operation Safe Road, which was carried out in Illinois and Florida, resulted in 39 convictions as of December 2001. The investigations were carried out by the U.S. Department of Transportation's Office of Inspector General, the Federal Bureau of Investigation, the Internal Revenue Service, the Postal Inspection Service, and the Illinois State Police.

Those convicted include employees at State testing facilities, Illinois State Government officials, and instructors at driving schools. At one of several facilities in Illinois where problems were initially uncovered, authorities allege that at least 250 unqualified applicants obtained licenses to drive trucks in exchange for bribes, and the manager of the facility was convicted of racketeering for generating at least \$100,000 in bribes. Investigators found problems involving both knowledge and skills testing.

The investigation in Illinois spread to Florida when applicants from Illinois were alleged to be traveling to Florida to fraudulently obtain CDLs from two employees of a Florida-based driving school. The applicants then returned to Illinois to exchange the Florida CDL for a valid Illinois CDL. Under Federal standards, such exchanges of licenses in a new State do not require retesting of the commercial driver.

The situation in Illinois and Florida had nationwide impact. Investigators identified 211 drivers who potentially obtained fraudulent licenses in Illinois and then transferred their licenses to 20 other States, and 692 other suspect drivers from Florida who transferred their licenses to 32 other States. Tracking down, notifying, and retesting the drivers was a major undertaking. New York State estimated that its efforts to track these license holders cost \$250,000. Of 102 former Illinois CDL holders contacted by New York for retesting, only 13 retained their CDLs. The remaining 89 drivers had their CDLs suspended, surrendered, revoked or downgraded to a noncommercial driver's license.

The Illinois and Florida investigation was the largest but not the only CDL-related investigation over the last several years. Since 1998, at least 14 other States had indictments or ongoing Federal or State investigations that involved improprieties in the CDL testing and licensing process. The cases ranged from incidents in which individuals attempted to cheat on knowledge tests, to cases in which applicants taking the driving tests were not required to complete key elements such as air brake tests or highway driving, to a case where individuals were under investigation for selling passing scores. Figure 5 (see the following page) describes key characteristics of these cases by State.

Criminal investigations of CDL fraud carried out by our office and other law enforcement agencies show that third-party testers, non-State employees who can administer driving tests, have been particularly susceptible to fraud. In commenting on a draft of this report, FMCSA noted that based on its recent oversight reviews of State CDL programs, state examiners are as susceptible as third-party examiners to fraudulent activities, given the same conditions of poor pay, inadequate oversight, and limited supervision.

As a consequence of the fraudulent testing and licensing of drivers, highway safety has been compromised and States have incurred additional expense. For example, one commercial driver who fraudulently obtained his CDL from an Illinois State inspection station was involved in an accident that killed six children. FMCSA reports that at least nine deaths have occurred in accidents involving drivers who illegally obtained their CDLs in Illinois. To ensure safety across the country, State officials have now retested thousands of CDL holders to be certain they are qualified to hold CDLs. Pennsylvania estimated it spent about \$1.3 million to retest commercial drivers after improper third-party testers were identified in 1998.

Figure 5: CDL-Related Investigations Since 1998

State	Description
Alabama	A trucking firm and a driver were sentenced to fines and jail for obtaining a fraudulent CDL.
Arkansas	After covert testing by State police, State officials notified three third-party testers that they were improperly administering the CDL skills test. The three schools had passed 1,095 drivers in the previous 12 months.
Florida	Federal indictments under Operation Safe Road have alleged CDL fraud involving third-party examiners in the State and have resulted in recalls of approximately 4,300 drivers for retesting. Separate State investigations have involved State examiners who conduct both commercial and noncommercial driving tests and third-party CDL examiners. These State investigations have led to recalls of about 2,000 drivers.
Georgia	FMCSA alerted our investigators and Georgia authorities in 2000 to a third-party examiner, subsequently arrested, for alleged involvement in the illegal sale of over 500 CDLs to truck and bus drivers who received licenses without passing proper road tests.
Illinois	Federal and State investigations of CDL fraud under Operation Safe Road have resulted in 39 convictions. In one instance, managers of a testing facility ensured that applicants passed written and driving portions of CDL tests for bribes between \$250 and \$1,200 per applicant. The Governor reported that at least 3,400 drivers were ordered to be retested.
Iowa	A truck driver was indicted for creating and using a fake Social Security number to obtain a false CDL after his original CDL was suspended.
Maryland	Ongoing investigation.
Michigan	A State investigation concluded that a driving school had administered invalid CDL skills tests for 3 years. Two felony indictments resulted.
Mississippi	A State CDL examiner pled guilty after being charged with giving passing scores on CDL exams although applicants did not take or pass all portions of the exams. Four trucking company employees also pled guilty in the scheme.
New Jersey	Ongoing investigation.
New York	A State investigation resulted in the arrest of two men for providing CDL applicants with wrist watches encoded with the answers to CDL tests.
North Carolina	Following an investigation by Federal and State officials, a third-party examiner was indicted for fraudulently certifying that he had tested 67 individuals who received CDLs.
Ohio	Federal and State investigators in 2001 uncovered a third-party examiner who improperly administered the CDL driving test to 248 applicants. The examiner's test lasted 10 minutes versus the 60 minutes that Ohio's test is supposed to take.
Pennsylvania	A State investigation disclosed that a third-party tester had passed CDL applicants without conducting the required skills tests. In total, officials reported sending notices to 5,800 individuals for retesting. In another case, a commercial driver was arrested and subsequently convicted for using a CDL and a Social Security number belonging to someone else when his license was suspended.
South Carolina	A commercial driver lost his license as a habitual traffic offender but falsely secured another CDL from South Carolina by assuming the identity and Social Security number of another individual.
Tennessee	Ongoing investigation.

New Security Concerns Following September 11, 2001

After the terrorist attacks on September 11, 2001, apprehension arose about the potential use of trucks in terrorist activities. The threat from hazardous materials gained increased attention after September 11, 2001, when the Justice Department released a list that included 22 people indicted for obtaining fraudulent CDLs to transport hazardous material. The indictments resulted from an investigation in Pennsylvania that started in 2000. None of the 22 individuals have been connected to the terrorist attacks.

Due to concerns about terrorist actions involving hazardous materials delivered by truck, Congress passed legislation in October 2001 requiring that drivers seeking a hazardous materials endorsement to their CDLs be subject to a background records check. In September 2001, FMCSA instructed its State offices to conduct visits to hazardous materials carriers to heighten sensitivity about security threats. As of February 2002, FMCSA reports completing over 36,000 contacts and making 126 referrals to the Federal Bureau of Investigation. In addition, one of the Department of Transportation's Direct Action Groups formed as a result of September 11th is examining the issue of credentials for all transportation workers, to include commercial drivers.

Since specific Federal standards on CDL drivers seeking hazardous materials endorsements had not been issued at the time of our audit, we did not assess the FMCSA or State actions underway. However, general improvements in testing and licensing standards and in FMCSA oversight over the CDL Program will help to address some of the heightened security concerns prompted by the attacks.

CHAPTER 3: REVISING AND CLARIFYING FEDERAL STANDARDS

Federal standards for testing and licensing commercial drivers provide a framework for State CDL programs and set the parameters for FMCSA oversight of the National CDL Program. Standards alone are not sufficient to protect against all instances of abuse. However, as the basis for improving CDL testing and licensing, FMCSA must establish more comprehensive Federal standards. Existing Federal standards and State controls are not sufficient to defend against the alarming threat posed by individuals who seek to fraudulently obtain CDLs.

We found several areas where Federal standards should be revised or clarified to ensure that applicants are eligible for CDLs and to provide needed consistency among State programs. Areas requiring attention include verifying the applicant's legal presence in the United States, requiring proof of the applicant's State residency, verifying the applicant's Social Security information, establishing qualifications for CDL driver examiners, regulating the issuance of CDL learner's permits, and setting FMCSA's guidelines for English language proficiency. Standards related to third-party testers should also be clarified to specify how the States should monitor third-party testers.

We acknowledge the difficulties involved with establishing Federal standards, particularly in controversial areas such as legal presence in the United States or English language proficiency. Such efforts will require coordination with those undertaking legislative or regulatory efforts to improve the overall security of driver licensing and identification, and transportation worker credentials. FMCSA must also coordinate its efforts with States who may be taking unilateral action to strengthen programs for verifying legal presence and State residency, particularly in response to the events of September 11, 2001.

FMCSA Has Recognized the Need to Strengthen Standards

Since its establishment as an Operating Administration in 2000, FMCSA has recognized the need to strengthen standards for State testing and licensing of commercial drivers. FMCSA has issued draft rulemakings to implement most of the CDL-related portions of the 1999 Act. These include provisions that directly impact testing and licensing such as issuance of hardship licenses and the guidelines under which FMCSA may prohibit a State from issuing CDLs. Two CDL-related rulemakings not yet issued for comment are a rule for combining the CDL and the medical certificate, and a rule to enforce provisions of

the law that will require States to perform inquiries of the CDLIS before issuing noncommercial licenses.⁴ The latter rulemaking is the responsibility of the National Highway Traffic Safety Administration.

In addition, FMCSA released a report in October 2000⁵ that discussed specific concerns about validation of State residency, Social Security information verification, and English language proficiency. Concerns related to learner's permits are also discussed in oversight reviews performed by FMCSA at the States and released in 2001. The October 2000 report provided the results from a panel that evaluated CDL program vulnerabilities in Illinois and Florida. The panel was chaired and staffed by FMCSA, but also included an official from the New York Department of Motor Vehicles and an investigator from our Office. The panel's report included 10 recommendations (see Figure 6) on how FMCSA could improve the CDL program in all States. The panel's report did not specify the actions planned by FMCSA to implement its recommendations.

We concur with FMCSA's general recommendations and have detailed in this audit report specific areas where Federal standards should be strengthened (Chapter 3) and specific ways to strengthen FMCSA's oversight process (Chapter 4). We also provide recommendations on how FMCSA can best focus its efforts to ensure the implementation of needed changes.

**Figure 6: General Recommendations for
FMCSA Action in October 2000 Report**

1. Strengthen its regulations governing States' oversight and monitoring of third-party CDL testing.
2. Provide resources and technical assistance to States to reemphasize the important link of the CDL functions to highway safety.
3. Move to quickly implement the 1999 Act requirement (Sec. 202(d)) to ban the issuance of specialty or hardship licenses to CDL holders who have lost their driving privileges.
4. Adopt rules requiring State management and fraud prevention monitoring reports on a periodic basis.
5. Better analyze and utilize data system reports for applicable oversight controls.
6. Develop rules governing the qualification and use of translators in the administration of CDL knowledge tests.
7. Accelerate its in-depth compliance review processes to enhance the operation of the CDL Program.
8. Upgrade field expertise in the CDL Program to provide appropriate oversight and assist States in achieving greater program uniformity.
9. Develop, in collaboration with States, "best practices" that identify and prevent CDL testing and licensing irregularities. Both FMCSA and States should promote these "best practices."
10. Strengthen its guidelines governing States' CDL monitoring and oversight practices, including those of third-party testing programs.

⁴ Under Section 204 of the 1999 Act, before issuing a motor vehicle operator's license (to include noncommercial licenses) a State must check the individual's driving record against the CDLIS and the National Driver Register.

⁵ "Evaluating Commercial Driver's License Program Vulnerabilities: A Study of the States of Illinois and Florida," FMCSA, October 2000.

Specific Areas Where Stronger Federal Standards Are Needed

FMCSA needs to translate its awareness of problems into tangible proposals for changes in Federal standards that can be implemented. The specific changes in Federal standards discussed below will strengthen controls and ensure consistency in State processes for testing and licensing commercial drivers.

Legal Presence and State Residency Requirements

Federal standards do not sufficiently address how States should verify the eligibility of CDL applicants. Two important areas in this regard are legal presence and State residency.

Federal standards do not require CDL applicants to demonstrate they are citizens of the United States or legally present in the United States, and the States' requirements in this area vary. Only 4 of the 13 States⁶ we visited had laws requiring applicants for drivers' licenses to demonstrate that they are citizens of the United States or legally present in the United States. Other States had requirements that applicants provide some form of identification to obtain a noncommercial license (which serves as the basis for obtaining a CDL), but requirements were not uniform across States. In addition, a license from another State was acceptable identification; thus less stringent standards in one State could be exploited to obtain a license in another State.

In terms of State residency, Federal standards require the applicant to be domiciled⁷ in the State issuing the CDL. However, only 4 of the 13 States we visited had laws that met this domicile requirement. Other States' residency requirements for CDLs were less strict, such as simply requiring 30- or 90-day residence in the State, or the State laws regarding CDL requirements did not define residency.

Whatever the definition of residency, in practice only 1 of the 13 States visited required proof of residency such as requesting that an individual provide a utility bill or lease when applying for a CDL. We also queried licensing offices in five other States with large CDL programs to determine whether the States require a CDL applicant to provide proof of residency. Officials at 7 of 10 licensing offices contacted in the 5 States said no proof of residency was required to issue a CDL.

⁶ Throughout this report, we have not identified the specific States with these vulnerabilities to help prevent abuse of the testing and licensing systems. Specific State information will be provided to FMCSA in a separate document.

⁷ State of domicile, as defined in the Federal standards, is where a person has his or her true, fixed, and permanent home and principal residence and to which the person has the intention of returning whenever absent.

In two States, commercial truck driving schools we visited that also acted as third-party testers failed to enforce the residency requirements. In these States, instructors and licensing officials reported that students from out of State attend the schools. The students used a temporary address to obtain a license from the State in which the school is located and then returned to their home State where they could exchange the license for one issued by their home State without being retested. For example, we randomly sampled 100 new CDL records in one State and found 6 of the 100 randomly sampled new CDL records used the same hotel for an address. The six sampled drivers attended the same truck driving school and were tested between September 1999 and May 2000.

An FMCSA official with responsibility for CDL policy acknowledged that a situation such as the one just described is a violation of the Federal rule. The official stated that some States do not have truck driving schools and in those cases a strict enforcement of the requirements would prevent people in those States from getting training at a school in another State. He noted that FMCSA is considering changes in the domicile standard, but no proposed standard has yet been issued.

Lax enforcement of the permanent residency rule may not pose a serious problem if testing standards are consistent across all States. However, it presents a problem to the degree that State differences in testing and licensing promote license shopping by individuals looking for easier locations to obtain a license. Without consistent enforcement of residency requirements, drivers may go to a State only to obtain a CDL and then return to their original jurisdiction, where they may easily exchange their CDL without being retested. Data we obtained show that CDL transfers occur at least 123,000 times a year, confirming the CDL's portability from State to State.

Demonstrating legal presence in the United States and State residency should be a requirement to obtain a CDL. The ease with which individuals involved in fraudulent licensing schemes in Florida, Illinois, and Pennsylvania had moved to or exchanged licenses in another State points to the need to strengthen and consistently implement residency requirements.

Ensuring Identity by Social Security Number Verification Not Common

Federal standards require CDL applicants to have a Social Security number. States are not required, however, to verify Social Security numbers against the Social Security Administration records, although a system is available to make this verification. The Social Security Administration provides Social Security number verification service to the States and other Government agencies. In addition, since 1997, AAMVAnet has offered a Social Security Administration On-line

Verification Service for verifying (for a fee) an individual's Social Security number during the driver's license issuance or renewal process.

Only 3 of the 13 States we visited performed verification checks as of January 2001. Three other States visited were pursuing implementation of a verification system. FMCSA's oversight reports on reviews of 10 States conducted between mid-2000 and early 2001 identified 6 States (4 that we visited and 2 others) that were not verifying Social Security numbers.

Law enforcement agencies in three States were investigating cases involving the use of fraudulent identities to obtain CDLs. These included a case in Iowa where a commercial driver, previously arrested for assault, concealed weapons, and drug and alcohol violations, was indicted for creating and using a false Social Security number to obtain a CDL. While verification of identity is a multi-faceted problem, verification of Social Security numbers would help to prevent applicants from using a fraudulent number to obtain a CDL. Verification of an applicant's Social Security number should be a Federal requirement.

Driver Examiner Training and Qualifications Should Be Enhanced

States we visited generally met the minimal standard that examiners working for third-party testers have training equivalent to that required for State examiners. However, Federal standards do not include specific training or qualification requirements for CDL driver examiners nor do the standards require that CDL examiners hold CDLs.

AAMVA recommended a minimum of 40 hours of training for driver examiners, and 10 of the 13 States visited met or exceeded the standard. The three States that did not meet the 40-hour standard included two States with no third-party testing that had no formal training requirement and another State with third-party testing that provided no more than 24 hours of initial training. These three States and two others also did not require the State driver examiners to have a CDL. In contrast, 9 of 10 States that used third-party testers required the third-party examiners to have a CDL.

By establishing minimum training and qualification standards for State and third-party examiners, FMCSA can ensure that both State and third-party examiners have an equivalent basic level of proficiency. Establishing higher credentials and training standards for CDL examiners may also serve to reduce the potential for fraud. Training segments could be devoted to fraud prevention topics such as reporting suspicious behavior and how to appropriately respond to bribery attempts.

Variations in Learner's Permits Pose Risks

Federal standards on learner's permits for CDL applicants require that the CDL applicant be accompanied in the commercial vehicle by a CDL holder and that the applicant either hold a valid noncommercial driver's license or meet the State's standards for a noncommercial license learner's permit. Controls over the use of learner's permits varied across the States visited and in some instances increased the possibility of putting untested drivers on the road. Practices observed in the use of learner's permits across the States visited included the following.

- In one State visited, a learner's permit good for a year could be issued even though the applicant had not passed any knowledge tests. Thus, applicants who have not yet demonstrated any knowledge of safe operation of a commercial vehicle could drive even large tractor-trailers if accompanied by a licensed CDL holder. State officials said they were seeking to change these practices but did not know when the change would occur.
- In another State visited, learner's permit holders were not entered into the State's motor vehicle licensing computer system. Therefore, if an applicant went to a different motor vehicle office to obtain a license after passing the driving test for a CDL, the office was required to call the local office to confirm the information. As permits in the State did not include pictures, this increased the potential for fraud: an individual could present a false learner's permit or a permit obtained by a different individual and thus receive a CDL without taking the knowledge test.

In addition, Federal standards do not require States to record data on CDL learner's permit holders in the CDLIS. As a result, individuals could obtain learner's permits for CDLs in more than one State, thus defeating the goal of limiting drivers to a single commercial license.

Controls for ensuring that beginning commercial drivers are properly monitored would be strengthened by establishing Federal standards that require applicants to pass knowledge tests before being issued a learner's permit. This would ensure that individuals operating commercial vehicles using learner's permits at least meet minimum knowledge requirements for their safe operation. FMCSA has drafted, but not released for comment, a proposed regulation that would require a license applicant to have a passing score on the knowledge test before a learner's permit could be issued. Standards should also address the recording of permits in the CDLIS in a consistent fashion.

Clarifying Standards on English Language Proficiency

Federal standards related to English language proficiency for commercial drivers require clarification. One Federal standard (Title 49, Code of Federal Regulations, Part 391, Qualifications of Drivers) requires carriers to ensure that their

commercial drivers are able to read and speak the English language sufficiently to converse with the general public, understand highway and traffic signs, respond to official inquiries, and make reports and records. However, the Federal standard on CDL testing and licensing does not place any requirement on the States to test for language proficiency.

FMCSA guidance supplementing Federal standards allows States to administer the CDL knowledge test in foreign languages. A 1997 survey by AAMVA reported that 19 States provided the CDL knowledge test in Spanish. Eight of the 13 States we visited allowed the use of interpreters for the knowledge tests although various restrictions on their use were in place. For example, translators had to be on an approved list. Driving tests were also administered in a foreign language by bilingual examiners in 2 of the 13 States we visited.

Given the variations and the previously noted condition on enforcing residency requirements, the current situation allows individuals to obtain CDLs in a State where the language requirements are different, and then return to their home State, where they may exchange their CDLs without any Federal requirement for retesting.

FMCSA attempted to address the English language proficiency issue in August 1997 by issuing an advanced notice of proposed rulemaking that called for establishing performance-oriented English requirements for commercial drivers. However, the rule has not progressed beyond the request for comments stage, and comments made by State officials in the 2001 CDL Symposium show a wide range of opinion among the States. A working group on the language issue was formed at the CDL Symposium.

Clarifying Standards for Monitoring Third-Party Testers

Standards should also be clarified to specify how monitoring of third-party testers should be conducted. However, changes in Federal standards on third-party monitoring will not be effective without stronger oversight from FMCSA to ensure that standards are implemented. This issue is discussed in Chapter 4, which focuses on how FMCSA needs to strengthen its oversight of State CDL programs.

CHAPTER 4: FMCSA NEEDS TO STRENGTHEN ITS OVERSIGHT OF STATE CDL PROGRAMS

The main components of Federal oversight⁸ over the National CDL Program are annual State certifications that the State is in compliance with Federal standards, FMCSA's periodic oversight reviews of State CDL programs, and follow-up by FMCSA to ensure that identified problems are corrected. Based on our audit, each of these components can be strengthened.

- The annual State certifications are not supported by in-depth reviews performed by the States, and no such reviews are required.
- FMCSA's periodic oversight reviews have improved, but the scope of the reviews needs to be expanded, and oversight of third-party testers should be strengthened.
- Past follow-up efforts to ensure that the States take corrective action have been ineffective. FMCSA should be willing to use sanctions when necessary to ensure that enhancements to FMCSA's oversight reviews translate into permanent improvements in the CDL testing and licensing process.

Improvement in these areas will provide stronger oversight and ensure that Federal standards are consistently followed. By doing this, FMCSA can reduce the risk of CDL fraud and help to ensure that unqualified drivers will not receive CDLs. A discussion of each area where oversight should be improved follows.

Annual State Certifications Are Not Supported by Reviews or Monitoring Procedures, and None Are Required

The requirement for the annual certifications originated with the final rule on State compliance with the CDL Program issued in May 1994. The State is to certify that it is in "substantial compliance" with the Federal standards. In certifying that the State meets the testing standard, the State is affirming that the "demonstrable combined effect" of its regulations, administrative procedures, organizational structures, control mechanisms, and resource assignments are adequate to preclude

⁸ Between 1994 and October 1999, the Federal Highway Administration conducted CDL oversight reviews. The Office of Motor Carrier Safety, a new office within the Department of Transportation, assumed the function from October 9, 1999, until the establishment of FMCSA on January 1, 2000.

an individual from operating a commercial vehicle unless the person passes the proper knowledge and driving tests.

According to the final rule issued in May 1994, the date for a State's annual certification was set on January 1 of each year to "enable the State to conduct a thorough review of its compliance." However, no Federal standards or guidelines issued since 1994 require any review to be done for the annual certifications. With the exception of inspections or audits related to third-party testing, we did not find any State reviews to support the certifications at the 13 States we visited.

The 10 States that used third-party testers each had programs to conduct the required annual on-site inspections of third-party testers (see discussion on page 24). Also, two States conducted audits focused on certain aspects of third-party testing. However, there were no other audits or documented reviews conducted by the States that could serve as a basis for relying on the conclusions provided to FMCSA in the annual certifications.

Another weakness in the State certification process is that the States are not required to and did not generally adopt procedures for monitoring data specific to CDL testing and licensing. For example, only 2 of 13 States visited could monitor the driving tests conducted by a driver examiner on a State-wide basis.

Such monitoring can be used to compare the total number of new licenses associated with a driver examiner to the number reported to his or her superiors or to the number of tests that it would be feasible to administer in a given time period. According to an FMCSA official, this type of monitoring could have caught the CDL fraud in Georgia in 2000, which only came to light through an informant. This argues for the establishment of systems for tracking CDL tests by examiner identification number and for the general development of systems for triggering an investigation or an inquiry if unusual trends or data are discovered.

Other indicators that could be monitored include the percentage of passing scores being given by driver examiners across the State. For example, Michigan used pass/fail rates from driver examiners employed by third-party testers as a means of focusing third-party reviews. The existence of such management control practices in the States would increase confidence in the validity of the annual certifications of the State CDL programs.

We also found that none of the 93 State certifications we reviewed for 1999 or 2000 identified a problem that had not been previously identified in an oversight review conducted by Federal officials. In the 14 cases in which the certification included a list of exceptions to the States' compliance, the exceptions were all problems already noted in Federal oversight reviews. The establishment by FMCSA of requirements that specify what actions States should take to review and continuously monitor CDL testing and licensing programs would ensure that

States support their certifications with adequate self-assessments and that the States establish controls that would identify program weaknesses in a timely manner.

Federal Oversight Reviews Have Improved but the Scope Should Be Expanded

Federal standards give FMCSA the authority to conduct reviews of a State's compliance with CDL standards, but the Federal standards do not specify the frequency or scope of the reviews. FMCSA policy from July 2000 calls for conducting compliance reviews at each State every 3 years and for conducting what FMCSA terms as "process reviews" annually if a State has one or more "outstanding issues which affect its substantial compliance." Past terminology for the reviews has varied so we will generally refer to all Federal reviews of State CDL programs as oversight reviews.

Limited Scope of Prior Reviews

Our assessment of 87 oversight review reports issued between 1994 and 1999 covering all 50 States and the District of Columbia show that past reviews were not as frequent as called for in the policy and that the reviews were limited in depth and scope.

- Between 1994 and 1999, about 3.5 years elapsed on average between one review in a State and the next one, although 14 States received only one review during the 6-year period.
- The reviews were focused on whether the States had established laws to implement the Federal CDL standards, and the reviews did not include tests designed to determine the adequacy of State systems.
- Field observations to support the reviews were limited. In 17 reviews, the past reports do not document that reviewers visited any testing facilities and less than half (41 percent) of the State reviews in States with third-party testers included visits to third-party facilities.

Improvement in Recent Oversight Reviews

Since the establishment of FMCSA in January 2000, the organization has taken steps to enhance the CDL oversight process, and reports issued show that the reviews have improved. FMCSA conducted training programs for FMCSA State officials who were slated to conduct oversight reviews. The training included coverage of material on the CDL Program and discussions of how to validate

information obtained from the States before FMCSA officials conduct their fieldwork. The training also included a visit to a local testing and licensing office to familiarize FMCSA State officials with these operations. After falling to 10 in 1999, the number of oversight reviews conducted increased to 12 in 2000, and then 20 in 2001.

In addition, the latest oversight reviews have included representatives from FMCSA's Headquarters office and its State Division office, and each review has used contractor support. A working group composed of Federal, State and AAMVAnet personnel has also been formed to address computer system issues and develop means of monitoring the effectiveness of the CDL Program.

Between September and November 2001, FMCSA issued its first 10 State oversight reports based on reviews conducted in 2000 and early 2001. The reports show that FMCSA enhanced the depth of its oversight reviews.

- The recent reports document testing of State computer systems performed by a contractor. The contractor assessed the general operation of the CDLIS within the State and tested the computer systems to make sure States were using convictions received through CDLIS to revoke or suspend CDLs when appropriate. Such tests were recommended in our June 2000 report.
- The reports discuss procedures in place at States to control potential abuse such as unauthorized overrides for computer record checks and control numbers established on certificates provided by third-party testers.
- The reports show that reviewers have visited testing facilities in all States reviewed.

Additional Improvements Needed

Despite the improvements, additional action is needed. First, FMCSA needs to complete the final reports that were pending as of February 2002 on 22 reviews initiated in 2000 or 2001. These final reports should show the corrective action plans proposed by the States and accepted by FMCSA.

In addition, to bring about permanent improvements, FMCSA will need to make further changes in the way oversight is done. FMCSA's current oversight system does not include performing functional reviews, monitoring key data on CDL licensing transactions, or systematically assessing the adequacy of controls in place within the States. Improved Federal oversight of third-party testers is also needed. Specifics on the key areas that FMCSA needs to address are provided below.

Performing Nationwide Functional Reviews. FMCSA officials stated that they plan to conduct nationwide reviews targeted at specific functions, such as

oversight of third-party testers, but no such reviews have been scheduled or initiated. Such reviews are important because the current oversight review process, which focuses on one State at a time, does not foster the identification and resolution of systemic problems that involve multiple States and could be best addressed by nationwide action. For example, attempts to improve procedures for the verification of State residency are best addressed on a multi-State basis because, given the ability to transfer licenses among States, the tightening of residency requirements in one State alone is not sufficient if other States have retained less strict requirements. Also, such reviews allow for the timely consideration of an urgent problem in all States instead of addressing the problem over the 3-year cycle of individual State reviews.

An additional mechanism not currently used by FMCSA that could promote more cross-State problem identification would be a Technical Advisory Group (TAG) for Commercial Driver's Licenses, similar to the TAG already established for Hazardous Materials. The TAG, made up of individuals from FMCSA offices around the country, would promote the exchange of information on testing and licensing as well as ensure nationwide awareness of advantageous practices and potential pitfalls identified during State-specific oversight reviews. One step that FMCSA did take to promote cross-State exchange of information on CDL issues was the sponsoring of a symposium in March 2001 of CDL representatives from the United States and Canada.

Monitoring Key Data on CDL Transactions. FMCSA was not routinely monitoring trend data on the operations of the States' testing and licensing processes. Expanding the scope of the current oversight reviews to include regular monitoring of key data by FMCSA could provide an early warning of problems and lead to better self-monitoring by the States. CDLIS generates routine management reports to show the volume of CDL transactions at each State, but FMCSA has not monitored key data on CDL transactions provided in these reports. Monitoring of the data would enable FMCSA to identify areas for review.

For example, our analysis of CDLIS reports showed that one State had not entered identifying data on 30,000 new commercial drivers in the CDLIS for a *20-month period*, although Federal standards require States to report each new CDL issued within *10 days*.

State officials took action to enter the drivers in the CDLIS when we alerted them to the situation. However, in the interim, other States would not be able to electronically transmit information back to the issuing State via CDLIS on traffic violation convictions for these drivers.

Systematically Assessing the Adequacy of Program Controls. The "compliance indicator" is a detailed checklist that FMCSA uses as a tool for determining State compliance with CDL standards. The current compliance

indicator should be improved or supplemented. It does not include questions or tests designed to measure the adequacy of controls established within the States' CDL testing and licensing processes. For example, the compliance indicator asks for a "yes" or "no" response to the question of whether the State performs annual inspections of third-party testers. However, it does not prompt the reviewer to dig further to review the evidence of such reviews and determine their scope and results. Enhancement of the compliance indicator would provide information on the degree to which States have actually implemented CDL standards such as the performance of annual inspections. It would also assist in identifying areas where Federal standards are not sufficient. For instance, if reviews found continued problems with States conducting annual inspections, the Federal standard might require modification to establish a documentation standard for such inspections.

An improved compliance indicator could also identify problems of the type we found in four States we visited where controls were not sufficient to prevent an insider from fraudulently recording passing scores for knowledge and driving skills tests. In each instance, employees could enter test information, such as knowledge and skills test results, in the State's licensing system and no verification tests were conducted to see that test scores in the system agreed with documentation on the actual test such as score sheets. While we observed no fraud in these cases, controls should be in place to verify that test scores in the system agree with documentation on the actual tests given to the applicants. We observed other States that had implemented this type of post-transaction checks of testing documentation as an internal control on the CDL process.

Modification of the compliance indicator to address such internal control issues would be consistent with the current Federal standards. The sufficiency of internal controls is one of the criteria that States must meet to be in substantial compliance with CDL requirements on testing standards. Therefore, FMCSA should conduct tests that address the sufficiency of a State's internal control structure before making a determination as to the State's compliance with CDL standards. Development of an improved compliance indicator that includes such internal controls checks would assist in identifying and correcting control weaknesses such as those that failed to prevent the issuance of fraudulent licenses uncovered in recent investigations. FMCSA issued guidance to its field offices in July 2000 instructing them to "ascertain" that management procedures in the States are adequate to ensure CDL Program integrity. Providing more detailed guidance on specific tests and questions for assessing controls would assist the field in consistently carrying out this directive.

The compliance indicator also does not include items designed to identify States adopting positive practices such as the randomization of questions to reduce the potential compromise of written tests. States may use the same copy or copies of the knowledge test repeatedly, although methods for producing randomized

versions of the knowledge test in paper or electronic format are available from AAMVA. Modification of the compliance indicator to create a broader assessment tool to identify such practices would enable FMCSA to have consistent, validated information on whether the States reviewed are adopting practices being promoted by FMCSA.

Examples of positive control practices we observed among the States visited are provided in Exhibit C. These practices include the use of detailed quality control checks on CDLs issued and the use of computer programs that randomly generate questions for the knowledge tests.

Improving Oversight of Third-Party Testers

The current oversight process must take stronger action to ensure that States are vigilant in their oversight of those who administer CDL tests, particularly third-party testers. Overall, we found that the Federal standards for monitoring third-party testers are not fully implemented.

States Not Meeting All Third-Party Monitoring Standards. The conditions under which States are permitted to carry out third-party testing are shown in Figure 7. Nationwide, 39 States allow driver examiners employed by third-party testers to administer CDL driving tests. Our on-site reviews and surveys showed that 23 of these States did not meet the Federal standards for monitoring third-party testers. Specifically, the 23 States did not either require State employees to annually take the driving skills test actually administered by each third-party tester, as if they were an applicant, or retest a sample of applicants already tested by third parties. Nationwide, we estimate that about 3,900 driver examiners employed by third-party testers are not monitored properly.

Among the 10 States we visited that used third-party testers, only Pennsylvania used required procedures by having State employees take the tests administered by third-party examiners as if they were applicants.

Figure 7: Third-Party Standards

1. Tests given must be the same as State tests.
2. Agreement between third-party tester and the State:
 - Requires annual on-site inspections by State personnel.
 - Allows random inspections or audits without notice.
 - Requires third-party examiners to meet the same standards as State examiners.
 - **Requires State employees to annually take the test actually administered by third-party testers as if the State employee were a test applicant or requires that the State retest a sample of drivers who were examined by third-party testers to compare pass/fail rates.**
 - Reserves to the State the right to take prompt and appropriate remedial action against third-party testers.
 - Ensures drivers tested by third parties provide proof of passing to the State.

All 10 States visited that used third-party testing had established programs for conducting on-site inspections of third-party examiners, although the nature of the programs varied. For example, in three States, the third-party monitor in the State was also responsible for certifying, training, and auditing third-party testers.

Differing Approaches Used for Third-Party Monitoring. The 23 States we visited or surveyed that did not meet the standard used a variety of other methods for monitoring third-party testers. Although they do not comply with the Federal standard, the methods used by the 23 States, particularly the level provided by Michigan, provide some level of oversight.

- In Michigan, during annual training for third-party examiners, a contractor played the role of a bus driver applicant, and the examiners had to correctly identify preplanned errors that the applicant made in the driving test. Michigan also included co-scoring (scoring an applicant while they take the test administered by the third-party examiner and then comparing scores).
- Overall, the 23 States that did not meet the standard used one or more of the following methods of monitoring: co-scoring with the third-party tester (19 States), observing the third-party tester during testing (11 States), and doing check rides (10 States). In check rides, a State employee accompanied a third-party tester on a driving test.

States offered differing reasons for the techniques they used. Michigan officials believed its training requirements and its monitoring of pass/fail rates met the intent of the Federal standard. Kentucky officials stated that covert tests were not feasible because all the third-party testers know the State police officers who would conduct such tests, although they planned to start showing up to test third-party applicants on an unannounced basis.

In responding to a draft of this report, FMCSA offered the view that the States that used co-scoring would meet the Federal standards because this is a variation of the Federal standard that calls for retesting a sample of drivers who have been tested by the third party. However, we disagree with this position. The Federal register comments explaining the issuance of the requirement in 1994 do not offer co-scoring as an alternative way to retest a sample of drivers, and we find no subsequent regulatory guidance issued by FMCSA that supports this interpretation.

Covert Monitoring a Useful Technique. The Federal standard on having State employees take the driving skills test as if they were applicants does not specify whether the test should be taken covertly (when the examiner does not know he or she is being monitored) or overtly (when the examiner knows that monitoring is taking place). Although covert monitoring is the control method FMCSA's officials preferred, they did not convey this to the States. One of the 13 States we

visited and 3 of the 29 States that we surveyed used routine covert testing to monitor third-party testers. Other States surveyed who reported meeting the monitoring requirement stated that they did so by retesting a sample of drivers who were examined by third-party testers and comparing the passing rates.

We found covert monitoring of examiners to be a useful oversight technique as shown in the following examples.

- The covert testing program in Pennsylvania started in 1998 after the State found that examiners from a third-party tester were passing applicants without administering a driving test. Between 1998 and 2001, Pennsylvania conducted 85 covert tests of third-party testers. Fourteen driver examiners employed by these third-party testers were removed from the State's testing program because they did not properly administer the driving tests. State officials estimated that 98 percent of the third parties that did business with the public had been subjected to covert testing, and they believed the program was an important way to maintain integrity in the system.
- During our visit, Arkansas performed its first covert review of third-party testers. A State trooper took the driving tests at 3 of the 31 third-party testers in the State. At one tester, the trooper passed the driving test even though he did not point out brake and suspension items as required, or complete the required road course maneuvers. His driving test consisted mainly of a conversation on his Army experience. Arkansas took action to remove the testing privilege from this third-party tester. In addition, Arkansas sought to remove the testing privileges from the other two third-party testers based on deficiencies found during covert reviews.

By clarifying standards regarding use of covert monitoring, FMCSA can ensure that third-party testers, who have responsibility for certifying that CDLs are given only to qualified drivers, are properly performing their duties.

Actions Are Needed to Correct Problems That Have Been Identified

Although FMCSA's record in this area is yet to be determined, our review of Federal oversight reports issued between 1994 and 1999 shows that FMCSA's predecessors did not adequately follow up on the status of prior State problems. In the 87 reports reviewed, we identified 280 findings. By our categorization, 174 of the findings in 46 States dealt with testing and licensing. The other 106 addressed other areas such as the establishment of penalties for the disqualification of drivers.

We obtained the status for past recommendations from reviews of previous reports because no central tracking system was in place to record the status of past recommendations to the States. The first oversight reviews identified 129 findings related to testing and licensing and the second reviews identified 45 findings. Of the 129 findings in the first round of reviews that dealt with testing and licensing problems, 51 (40 percent) of the findings were resolved in the following report on the State, another 16 (12 percent) were repeated, and the resolution or current status for the remaining 62 issues (48 percent) was not addressed in any subsequent reports.

In addition, certain significant issues, particularly those related to third-party testers, persisted, even after the problem was identified. The 16 repeat findings occurred across 9 States. The most significant of the problems involved improper monitoring of third-party testers, such as a failure to perform annual inspections of examiners or not having a State employee take the test as if he were an applicant. During a second oversight review, four States were cited again for this problem.

We visited four of the nine States with repeat findings and found that compliance issues remained in three States. Most significantly, California had five repeat findings related to testing and licensing from reviews done in 1994 and 1997, including a finding related to the monitoring of third-party testers. As of July 2001, California had still not completed corrective action on this issue, and the 921 third-party testers in the State were still not subject to the required monitoring. The State had established plans to compare the driver history records of commercial drivers completing third-party tests and those completing State tests as a means of meeting the Federal standard. However, the plan was not yet implemented, and even if implemented, it would not meet the Federal standard.

For the 10 oversight reviews released after the establishment of FMCSA in January 2000, FMCSA identified 77 new findings across all areas. The problems identified in the reports include 2 States cited for not monitoring third-party testers properly and 1 State where computer checks showed that the State had failed to properly revoke licenses from 296 CDL holders. However, only 1 of the 10 reports addressed any of the findings from prior reviews.

FMCSA Headquarters instructed its field offices to monitor the States' progress in making corrective actions and conduct a follow-up review in a year to guarantee the correction of all issues at the 10 States. At this time, FMCSA Headquarters has accepted the States' plans to correct the problems identified and not found any of the States in substantial noncompliance. A determination of substantial noncompliance would require the withholding of Federal highway funds.

FMCSA should ensure that the planned follow-up reviews track the status of corrective actions on its recommendations more completely than has been the case in the past. Also, if the follow-up reviews show continued problems, FMCSA

should take stronger action than its predecessors to ensure that corrective actions are taken. For example, FMCSA should insist that testing and licensing be suspended in whole or in part within the State until the State demonstrates that corrective action on significant problems has been taken.

FMCSA Should Use Sanctions When Necessary to Enforce Compliance

Under Federal standards, States failing to correct significant CDL problems face the withholding of Federal highway funds. However, neither FMCSA nor its predecessors have withheld Federal highway funds to enforce compliance with CDL provisions.

FMCSA's response to the draft report stated that two States (Louisiana and the District of Columbia) took corrective actions when notified that steps to withdraw funds were initiated. Our prior audit report⁹ on the CDL program showed that FMCSA first identified problems in these two States in 1995, while corrective actions in the States did not occur until 1999 at the earliest.

Under the Motor Carrier Safety Improvement Act of 1999, the Secretary of Transportation has authority to prohibit a State from processing and issuing CDLs, and FMCSA may withhold Motor Carrier Safety Assistance Program (MCSAP) grant increases until substantial compliance is achieved. The Federal standards under which FMCSA would use the new sanctions have yet to be finalized, but FMCSA has issued proposed standards for comment. To ensure that improved oversight leads to real improvements, FMCSA should be prepared to use available sanctions when the States fail to take corrective action.

A willingness to use sanctions when necessary will also ensure that additional funding for CDL programs leads to effective change. In fiscal year (FY) 2001, FMCSA distributed \$11 million to 15 States for improvements in areas such as oversight of third-party testers and correction of systemic problems. An additional \$4 million in high priority MCSAP funds was also used to fund State related CDL requests or cooperative agreements. For FY 2002, Congress appropriated approximately \$6 million in revenue aligned budget authority for State CDL program improvements and \$10 million for highway safety data improvements that impact the CDL program. FMCSA also reports that \$4 million in high priority MCSAP funds will be issued to the States in FY 2002 for CDL-related activities.

⁹ "Disqualifying Commercial Drivers," Report Number MH-2000-106, June 30, 2000.

Recommendations

We recommend that the Federal Motor Carrier Safety Administrator:

1. Strengthen the framework for State CDL programs by issuing new or clarifying existing Federal standards that require:
 - a. CDL applicants to demonstrate citizenship or legal presence in the United States and residency in the State where the examination takes place.
 - b. Verification of a CDL applicant's Social Security number before a license is issued.
 - c. Testing protocols and performance-oriented requirements for English language proficiency for CDL applicants.
 - d. Successful completion of the CDL knowledge test by applicants before the State issues a learner's permit.
 - e. Information on individuals holding CDL learner's permits be included in the CDLIS.
 - f. Specific training and qualification standards for State and third-party CDL examiners.
 - g. The use of covert procedures for monitoring a portion of State or third-party CDL examiners.
2. Improve FMCSA's oversight of State CDL programs for testing and licensing commercial drivers by:
 - a. Establishing requirements for annual certifications by the States to ensure that the certifications have an appropriate basis in terms of documented reviews and monitoring programs.
 - b. Expanding the scope of Federal oversight reviews of State CDL programs to include:
 - (1) The conduct of a nationwide or multi-State review targeted at State monitoring of third-party testers to promote compliance with existing Federal standards.
 - (2) Establishing a Federal Technical Advisory Group for CDLs to promote the exchange of information among Federal officials on pitfalls and best practices in conducting reviews of State CDL programs.

- (3) Monitoring by FMCSA of CDL testing and licensing data to target vulnerable areas and if needed conducting multi-State reviews.
 - (4) The use of an improved assessment tool for oversight reviews that gauges the adequacy of State systems for detecting and preventing CDL improprieties. The assessment tool should measure and promote the adoption by the States of useful control techniques such as randomizing written test questions, tracking CDL tests by examiner number, post-transaction checks, and the covert monitoring of driver examiners.
3. Ensure that problems identified in Federal oversight reviews of State CDL programs are corrected by:
 - a. Timely completion of reports on oversight reviews so that States are aware of actions required.
 - b. Establishing a tracking system for following up on the status of actions required by the States.
 - c. Using sanctions when necessary to deal with noncompliance and promote corrective actions.

Management Comments and Office of Inspector General Response

A draft of this report was provided to FMCSA on March 8, 2002. In its comments, FMCSA agreed there is a need to strengthen the CDL testing and licensing program, concurred with the report's recommendations, and identified the corrective actions that are planned or underway. The full text of FMCSA's April 16, 2002 comments is provided in the Appendix.

In response to Recommendation 1, FMCSA agreed that planned future rulemakings will ensure that:

- residency and domicile requirements are clarified and proof of residency is addressed.
- the use of interpreters during the CDL driving skills tests is prohibited and English is mandated for conducting the skills tests.
- CDL applicants are required to successfully complete the knowledge test before the State issues a permit.

- establishing a driver history record on CDLIS is required when each driver is issued a learner's permit.
- minimum training and qualification standards for State and third-party examiners are established.

Further, a memorandum will be sent to FMCSA's Division administrators directing them to develop plans with their States for verifying Social Security numbers of CDL applicants.

Commenting on Recommendation 1g, FMCSA stated that a policy memorandum will be issued endorsing covert procedures for monitoring State and third-party examiners. This is a positive step, however, it does not address the intent of the recommendation, which was to require the use of covert monitoring procedures for at least a portion of third-party and State CDL examiners. By carrying out the intent of the recommendation, FMCSA can help ensure that CDL examiners are properly performing their duties even when the examiners do not know they are being monitored. We are requesting that FMCSA reconsider its response to Recommendation 1g.

FMCSA's comments on Recommendation 2 provided details on a number of corrective actions planned or underway to improve oversight over the testing and licensing of commercial drivers.

In its comments on Recommendation 2a, regarding annual State certifications, FMCSA stated that starting in FY 2003, States will be required to submit progress reports on corrective actions and a completed compliance indicator along with the annual certification.

In responding to Recommendation 2b, which discussed expanding the scope of Federal oversight reviews of the State CDL programs, FMCSA stated that:

- Four high-level managers, one from each of the four Service Centers, serve as a technical advisory group that will be further expanded as needed to include other field personnel.
- data from electronic transaction reports will now be reviewed on a periodic basis using a web site. Also, an interagency CDL Fraud Task Force is being assembled to develop countermeasures for conditions that foster and promote identity fraud.
- a team of Headquarters and field personnel, plus staff from AAMVA and the contractor, will be put together to modify and update the current compliance tool.

In commenting on Recommendation 2b(1), FMCSA concurred with the recommendation to conduct a nationwide or multi-State review targeted at State monitoring of third-party testers. While the planned actions do not directly address the conduct of a review, the planned actions when combined with the planned update of information on State compliance with third-party monitoring standards (proposed in reference to Recommendation 1g) will meet our intent.

The FMCSA response to Recommendation 3, which addressed correcting problems identified by Federal oversight reviews, stated that:

- ways to abbreviate what is currently a necessarily protracted process will be sought.
- a secure web site has been established to track the progress of the reviews and to track the actions taken by States to correct deficiencies found during FY 2001 and FY 2002 compliance reviews. The web site will also track follow-up reviews conducted to ensure that compliance issues are corrected.
- sanctions will be taken against States that fail to submit acceptable action plans or fail to correct deficiencies within agreed-upon time frames.

We also note that the successful implementation of many of the proposed corrective actions is contingent upon the completion of rulemaking actions. We have found that factors such as differing views on the substance of a proposed rule, requirements for cost/benefit analysis, and the need to have other entities review a proposed rule, can influence the time it takes to issue a rule. In July 2000, we reported that the Department of Transportation took an average of 3.8 years to issue significant rules. Thus, timely completion of the proposed rulemakings will require high-level attention within FMCSA and the Department.

Finally, while FMCSA provided corrective actions in response to the recommendations in this report, target completion dates are needed for 9 of the 15 recommendations. Therefore, we request that FMCSA provide written comments within 30 days containing the target completion dates for Recommendations 1a, 1b, 1c, 1d, 1e, 1f, 2b(1), 2b(4), and 3a. We also ask that FMCSA provide a response to our request to reconsider its actions on Recommendation 1g. In instances where we are in agreement on the corrective actions and target completion dates are provided, the recommendations are considered resolved subject to the follow-up provisions of Department of Transportation Order 8000.1 C.

EXHIBIT A. ACTIVITIES VISITED OR CONTACTED

ACTIVITIES VISITED

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

Headquarters, Washington, DC

Policy and Program Development

Office of Bus and Truck Standards and Operations, Driver & Carrier Operations
Division

Enforcement and Program Delivery

Office of Motor Carrier Safety Programs, State Programs Divisions

State FMCSA Offices

Little Rock, Arkansas
Sacramento, California
Tallahassee, Florida
Frankfort, Kentucky
Baton Rouge, Louisiana
Augusta, Maine
Baltimore, Maryland
Lansing, Michigan
Trenton, New Jersey
Albany, New York
Raleigh, North Carolina
Harrisburg, Pennsylvania
Pierre, South Dakota

STATE OFFICES AND TESTING SITES

Arkansas

- Department of Finance and Administration, Little Rock
- Central Revenue Office, Little Rock
- Pine Bluff Department of Finance and Administration
- Southwestern Office, Little Rock
- State Police Headquarters, Little Rock
- State Police Troop A, Little Rock
- State Police Troop E, Pine Bluff

California

- Department of Motor Vehicles (DMV), Sacramento
- Commercial Driver Test Facility, West Sacramento
- DMV Office, El Centro
- DMV Office, El Cerrito
- DMV Office, Escondido
- DMV Office, Sacramento
- DMV Office, Spring Valley
- DMV Office, Vallejo

Florida

- Department of Highway Safety and Motor Vehicles, Tallahassee
- Coral Reef Driver License Services, Miami
- Division of Driver Licenses, Gainesville
- Division of Driver Licenses, Marianna

Illinois¹

- Secretary of State, Driver Services Facility, McCook
- Secretary of State, Driver Services Facility, West Chicago

Kentucky

- Transportation Cabinet, Frankfort
- Franklin County Circuit Clerk, Frankfort
- Jefferson County Circuit Clerk, Louisville
- State Police Headquarters, Frankfort
- State Police Bowman Field, Louisville
- State Police Fayette County, Lexington
- State Police Franklin County, Frankfort
- State Police State Fairgrounds, Louisville

¹ Although Illinois was excluded from the universe of States being selected for review (see Exhibit B), members of the audit team applied for CDLs at these offices to become familiar with the CDL application process.

Louisiana

- Department of Public Safety and Corrections, Office of Motor Vehicles, Baton Rouge
- Office of Motor Vehicles–Truck Center, Baton Rouge
- Office of Motor Vehicles, Hammond

Maine

- Department of State, Bureau of Motor Vehicles, Augusta
- Maine Bureau of Motor Vehicles Testing and Licensing, Augusta
- Maine Bureau of Motor Vehicles Testing and Licensing, Portland
- Skills Testing Facility (DOT Yard), Fairfield
- Skills Testing Facility (DOT Yard), Scarborough

Maryland

- Maryland Motor Vehicle Administration, Glen Burnie
- Licensing Facility, Beltsville

Michigan

- Department of State, Driver Training and Testing Division, Lansing
- Department of State, Bureau of Branch Services - Lansing South, Lansing
- Department of State, Bureau of Branch Services - Lansing West, Lansing

New Jersey

- Division of Motor Vehicle Services–Headquarters, Trenton
- Central Regional Driver Testing-Bakers Basin
- Southern Regional Driver Testing-Cherry Hill
- Central Regional Driver Testing-Rahway

New York

- Department of Motor Vehicles Headquarters, Albany
- Cheektowaga Auto Bureau, Depew
- Department of Motor Vehicles, Buffalo
- Department of Motor Vehicles, Albany
- Department of Motor Vehicles, Hicksville
- Department of Motor Vehicles, Queens
- Department of Motor Vehicles, Schenectady

North Carolina

- Division of Motor Vehicles–Headquarters, Raleigh
- North Raleigh Division of Motor Vehicles
- Smithfield Division of Motor Vehicles
- West Raleigh Division of Motor Vehicles

Pennsylvania

- Department of Transportation, Bureau of Driver Licensing, Harrisburg
- Driver License Center, Harrisburg
- Driver License Center, Norristown

South Dakota

- State of South Dakota, Department of Commerce and Regulation, Pierre
- Huron Department of Commerce and Regulation
- Pierre Department of Commerce and Regulation
- Rapid City Department of Commerce and Regulation

Virginia

- Department of Motor Vehicle Headquarters, Richmond
- Gallows Road Department of Motor Vehicles, Fairfax County
- Richmond Department of Motor Vehicles
- Department of Motor Vehicles, Springfield

THIRD-PARTY TESTERS

Arkansas

- CalArk Trucking Company, Little Rock
- Covenant Transport Inc. Trucking Company, Stuttgart

California

- Matheson Trucking, Inc., Elk Grove
- The Morning Star Trucking Company, Yuba City
- The Morning Star Trucking Company, Woodland

Florida

- 3 "S" Trucking Inc., Ft. Lauderdale
- 3 Way Transportation Leasing and Export, Pompano Beach
- Key PowerTechnical Institute, Miami
- MTA Schools, Tallahassee
- Washington-Holmes Technical Center, Chilly
- Supervalu, White Springs

Kentucky

- Franklin College Truck Driving School, Lexington
- Thoroughbred Truck Driving School, Lexington
- Woodford County School District, Versailles

Louisiana

- Diesel Driving Academy Inc., Baton Rouge
- Louisiana Technical College, Jumonville Memorial Campus, Port Allen

Maryland

- Baltimore Gas & Electric, Employee Tester Program, Baltimore

Michigan

- ABC Training and Testing, Lansing
- Academy Testing, Lawton
- Fleet Compliance Group, Grandville
- Capital Area Transportation Authority, Lansing

North Carolina

- Alliance Tractor Trailer Training II, Inc., Truck Driving School, Benson
- Johnson Community College, Smithfield
- Pepsi Bottling Venture, Raleigh

Pennsylvania

- All-State Career School, Lester
- Derry Township School District, Dauphin County

South Dakota

- Parkhurst Construction, Huron
- Western Dakota Technical Institute, Rapid City

Virginia

- Greyhound Bus Company, Richmond
- Richmond School District, Richmond

ACTIVITIES CONTACTED

STATE OFFICES

We contacted by phone State CDL representatives in charge of overseeing State and third-party testers in the following States.

Alabama	Kansas	Oregon
Alaska	Massachusetts	Rhode Island
Arizona	Minnesota	South Carolina
Colorado	Mississippi	Tennessee
Connecticut	Missouri	Texas
Delaware	Montana	Utah
District of Columbia	Nebraska	Vermont
Georgia	Nevada	Virginia
Hawaii	New Hampshire	Washington
Idaho	New Mexico	West Virginia
Illinois	North Carolina	Wisconsin
Indiana	North Dakota	Wyoming
Iowa	Ohio	
	Oklahoma	

EXHIBIT B. DETAILS ON AUDIT METHODOLOGY

We selected a sample of States for review using a methodology designed to include States with a range of testing and licensing programs and States with significant numbers of CDL holders. We conducted audit tests at selected States designed to determine whether States had appropriately tested new CDL applicants and whether State and third-party examiners who gave driving tests were appropriately trained and qualified. We obtained a sample of CDL applicants for review and estimated the magnitude of new CDLs by comparing computer files from the CDLIS showing all CDL records at specific points in time in June 1999 and May 2000.

We also reviewed and categorized the content of 87 oversight review reports completed from 1994 through 1999. We also reviewed 10 oversight reports completed by FMCSA from September through November 2001 and provided to the audit team in December 2001. During the audit, we obtained technical assistance from the Office of Inspector General's (OIG) statistician and computer specialists. In addition, AAMVAnet officials provided current and historical data on CDLIS records and transactions.¹ Details on the selection of the States, on the estimates made, and on our audit tests are provided below.

States Selected. We selected States for review in two phases. The universe included 49 States and the District of Columbia. (Illinois was excluded from the review to avoid conflicts with the ongoing investigations.) In the initial phase, we categorized each State based on the type of CDL program (State testers only, third-party testers only, or both State and third-party testers) and characterized the size of the CDL program as measured by AAMVAnet reports showing how many new CDLIS records were established in each State between May 1999 and April 2000. We then randomly selected eight States for in-depth review, with larger States having a higher probability of selection, and with certain program types censored or selected to provide for a range of CDL program types. The eight States selected in the initial phase were Arkansas, California, Florida, Kentucky, Michigan, New Jersey, New York, and South Dakota. Based on issues identified during the first phase, such as oversight of third-party testers, we selected five additional States to review. These States were Louisiana, Maine, Maryland, North Carolina, and Pennsylvania.

In all States visited for review, we determined the policies and procedures in place for testing and licensing commercial drivers through review of documentation,

¹ Based on information obtained from AAMVAnet, we reported in our previous audit that conviction information passed through CDLIS was not retained. However, when we requested historical information from AAMVAnet during the current audit, the officials were able to provide such information.

interviews with knowledgeable officials, and direct observation of the licensing and testing process. In addition, in our work at the eight randomly selected States, we reviewed a random sample of records on CDL driving examiners and new CDL holders.

Estimates for New CDLs Issued and CDL Transfers. Specific State calculations for new CDL holders were based on a comparison between CDLIS Master Pointer Records files over a 331-day period between June 1999 and May 2000. Based on work performed at eight States, we assumed that 10 percent of the new CDL Master Pointer Records were not granted to new CDL holders but were established for some other purpose such as commercial vehicle convictions for a non-CDL holder² or the establishment of a CDL record for a learner's permit. Our annual estimates for CDL transfers are based on the number of Master Pointer Records from June 1999 that were recorded on another State in May 2000. This is a conservative estimate as it does not account for transfers of new CDL holders that occurred after June 18, 1999, but before May 25, 2000, or multiple transfers within the time period. AAMVAnet data on inter-State record exchanges show about 178,000 transfers between April 1999 and May 2000 but data from one State visited appear overstated.

State and Third-Party Examiners Sampled. We reviewed records for a sample of CDL driving examiners at the eight States to determine whether State and third-party examiners who gave driving tests were appropriately trained and qualified. In total, the 8 States reported having 2,109 State or third-party skills examiners as of September 2000. Across the 8 States, in consultation with the OIG statistician, we selected a random sample of 385 examiners for further review.

New CDLIS Records Reviewed. We reviewed a sample of new CDL holders in eight States (Arkansas, California, Florida, Kentucky, Michigan, New Jersey, New York, and South Dakota) to determine whether States had appropriately tested new CDL applicants. To obtain information on new CDL applicants from a source outside the State reviewed, we obtained computer files from CDLIS showing all CDL records as of June 1999 and May 2000. We then performed a comparison of the computer files and identified approximately 475,000 entries from May 2000 that were not on the records as of June 1999. For the 8 States, a total of 146,425 new records were identified. In consultation with the OIG statistician, we selected a statistical sample of 100 new CDL records for each of the 8 States for further review. For each record sampled, we examined the appropriate driver history records and sought available documentation on the testing and licensing actions associated with the record.

² Although a CDLIS record is most commonly created when an applicant obtains a CDL, other events may cause the creation of a record. For example, the conviction of a non-CDL holder for a traffic violation in a commercial vehicle will prompt creation of a CDLIS record. In addition, for a small number of our sample (less than 1 percent), the driver had a previous CDL record but did not appear on the earlier master record.

Content Analysis of Oversight Reports. We also reviewed and categorized the content of 87 oversight review reports dated from July 1994 to December 1999. The reports were obtained from FMCSA staff. Key elements obtained from each report included findings, recommendations, and proposed resolution.

Assessment of Computer-Generated Data. In the conduct of this audit, we used computer-generated data from AAMVAnet, which operates the CDLIS, and from the 13 States visited. We compared the automated data provided by the States with the computer-generated data obtained from the CDLIS and were able to identify State records for each driver sampled from the AAMVAnet records. We did not assess the general and application controls for each of the automated systems. The data were used to provide information on the magnitude of the CDL program and to obtain a sample of CDL holders that we assessed using other sources of evidence such as State driver records and score sheets used during driving tests. In our opinion, when the data are viewed in context with other available evidence, the results and conclusions in the report are valid.

Performance Plan. The Department of Transportation's performance plan for FY 2002 did not include any goals on the testing and licensing of commercial drivers. Accordingly, no assessment of the data relevant to these goals was required.

EXHIBIT C. POSITIVE PRACTICES

The following information on positive practices is offered for their dissemination throughout the CDL testing and licensing community. The practices are grouped according to the 10 control areas we assessed during the audit. The list is not all-inclusive, and the specific items may involve practices observed in whole or in part at several States. The information is intended to supplement other efforts underway to identify CDL best practices.¹ In some cases, specific actions may be addressed in our recommendations.

Control Area #1—Identity: Controls to ensure that the person applying for a CDL provides the correct identity.

- Include digitized photograph in the driver history record and review the photograph when replacement licenses are issued. This controls against different individuals obtaining a license by falsely claiming that a CDL was lost or stolen.
- Include fingerprints in driver's record.
- Verify Social Security numbers with Social Security Administration.

Control Area #2—Residency: Controls to ensure that applicants for a CDL have permanent residence in the State from which they are obtaining the CDL and provide an accurate address.

- Mail the new licenses to the address provided by the applicants to control against use of false addresses.
- Do not accept post office boxes for addresses.
- Require applicants to provide copies of leases or utility bills as proof of residency.

Control Area #3—Record Checks: Controls to ensure that CDLIS and NDR are checked for eligibility before issuing a CDL.

- Establish computer programs that do not allow transactions to continue until checks are performed. For example, establish computer programs that will not allow examiners to input results of an examination into the computer until CDLIS and NDR checks are performed.

¹ AAMVA officials released a draft version of "AAMVA CDL Best Practices (2001)" at the CDL Symposium, March 1-3, 2001, Washington, D.C.

- Establish computer programs that automatically check CDLIS and NDR for each CDL transaction.
- If licensing clerks have the ability to override NDR checks, establish a reporting system showing the number of overrides and the licensing clerks responsible for the action.

Control Area #4—Knowledge Tests: Controls to ensure that applicants pass the appropriate knowledge tests before they can receive a CDL.

- If translators are permitted in knowledge testing, ensure that translators come from an approved list. Also, tape record translations to discourage cheating and permit later review if problems are suspected.
- Use fully computerized knowledge testing systems where questions are randomly selected and scores are automatically transferred onto the driver's record.
- If fully computerized systems are not feasible, use computer programs that randomly generate questions for the knowledge tests. These can produce multiple printed versions of the knowledge tests so those individuals taking the test side-by-side do not have the same questions. An AAMVA committee has developed such a program for use by the States.

Control Area #5—Permits: Controls to ensure requirements are met before the issuance of a learner's permit. (Learner's permit holders are allowed to operate a commercial vehicle provided a CDL holder accompanies the person.)

- Place applicant's photograph on the learner's permit.
- Place data on CDL learner's permit holders in the CDLIS to preclude individuals from obtaining multiple learner's permits in different States.
- Do not accept permits transferred from other States, or if transfers are permitted, be of State differences regarding passing the knowledge tests before issuance of permits.

Control Area #6—Issuance: Controls to ensure that licenses are only issued to individuals who have completed all requirements.

- Before a license is issued, have a different unit reconcile and verify documents involved in the transaction.
- As an alternative to pre-issuance reviews, conduct a post-transaction audit to verify that the results of knowledge and driving tests are correctly entered into the computer system.

- Establish computer system controls that cannot be overridden, which will not allow the issuance of a CDL without completion of all required steps.

Control Area #7—Training Qualified Examiners: Controls to ensure that driving examiners are properly trained and qualified to administer the skills tests.

- Require formal training to become a driving examiner and annual refresher training. The AAMVA certification training provides for a minimum of 40 hours of initial training and 10 hours of annual training for refresher purposes.
- Require State examiners as well as examiners working for third-party testers to have CDLs.
- Conduct annual driver and criminal checks on examiners.
- Combine the training for State and third-party testers to ensure that tests administered by the two types of testers are consistent.

Control Area #8—Skills Test: Controls to ensure that an applicant takes and passes the appropriate skills test before receiving a CDL.

- Design counterfeit-resistant certificates for use by third-party testers to show that driving tests have been successfully completed.
- Use standard written preprinted instructions for applicants when giving the test to promote consistent administration of the tests, including checks to see that tests are conducted in a vehicle representative of the one that will be used by the applicant after the license is issued.
- Hold periodic meetings for driving examiners from across the State to promote greater consistency in the examination process.
- Establish written descriptions of how the driving test is to be conducted in the State.

Control Area #9—Review Examiners: Controls to ensure that third-party examiners are monitored to ensure they are complying with the CDL Program.

- Conduct routine covert reviews of third-party testers.
- Assign State examiners the task of reviewing third-party testers, thus promoting consistency in testing.
- Use pass/fail statistics on examiners to focus the reviews of third-party testers or State examiners who show unusually high pass rates.

- Perform checks of all scoresheets completed by examiners and plot the scores on sampled tests to identify suspicious scoring patterns. Take action if review shows that the applicant was not properly passed.
- Establish up-to-date oversight files on all third-party examiners. For example, ensure all files contain the same items (i.e., initial application; background checks; medical, criminal, and training records; information on pass/fail rates; and copies of recent audits).

Control Area #10—General Oversight: *Controls established to generally ensure that the CDL Program is working as intended.*

- Perform State-wide audits related to the CDL Program. For example, check third-party testers with State employment records to ensure that third-party testers properly record their employer.
- Conduct audits to include tracing a sample of CDLs issued according to the computer system to scoresheets and written tests.
- Remove third parties from the program that do not take or successfully complete the required training.
- Maintain an up-to-date database of current third-party testers, along with date of most recent audit, and dates of training.
- Review statistics AAMVA prepares on licenses issued and exchange of records across States to ensure consistency with State-generated data.
- Ensure that scoresheets used for driving tests record length of time for the examination and the signature of the applicant and the tester.
- Program computer systems so that examiner identification numbers associated with tests can be retrieved and so that the licensing clerk involved with specific transactions can be identified.
- Require third-party testers to be bonded.
- Revoke testing privileges from third-party testers that do not do a certain minimum of driving tests each year (in one State it was 24) to ensure that the costs of oversight do not exceed the benefits that accrue from having the third-party tester.

EXHIBIT D. LIST OF MAJOR CONTRIBUTORS

The following Office of Inspector General staff contributed to this report.

Barbara Cobble	Program Director
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Larry Herdzina	Senior Analyst
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Chris Smith	Auditor
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APPENDIX. FMCSA COMMENTS

U.S. Department
Of Transportation

Memorandum

Federal Motor Carrier
Safety Administration

April 16, 2002

INFORMATION: FMCSA's Response to the
Office of Inspector General's (OIG) March 2002
Report on Improving Testing and Licensing of Commercial Drivers

From:  Joseph M. Clapp, Administrator
x60081

To: Assistant Inspector General for Auditing

We have reviewed the subject report and agree that there is need for corrective action. We appreciate the opportunity to provide our responses and planned actions. The following are clarifications of factual information and the actions we have taken or plan to take for each recommendation.

CLARIFICATION OF FACTUAL INFORMATION

The following comments clarify assertions that appear in the report:

- On page 2, line 2, reference is made to drivers transferring their CDLs to other states "under the reciprocity provision of the CDL Program." The CDL reciprocity provision under 49 CFR 383.73(h) refers to drivers with a valid CDL from one State being allowed to operate a commercial motor vehicle in other states. The Federal CDL regulations are silent in regard to whether a driver transferring a CDL from one State to another has to be retested. It is currently a State decision whether or not to retest a driver transferring into the State. *[OIG Response--Phrase was deleted (page 2).]*
- On page 2, line 11, reference is made to Federal standards that require an applicant to have "knowledge of eight general areas." While 49 CFR 383.111 on general knowledge has eight paragraphs, many of those paragraphs are divided further into 18 knowledge area requirements for the general CDL knowledge test. *[OIG Response--Report was revised (page 2) to clarify.]*
- On page 8, line 9, reference is made that third-party testers "have been particularly susceptible to fraud." FMCSA's recent CDL State compliance reviews have shown that State examiners are as susceptible to fraudulent activities

as third-party testers given the same conditions of poor pay, inadequate oversight and limited supervision. Because the majority of states use third-party testers, the majority of fraud cases have involved third-party testers. However, susceptibility appears to be approximately the same.***[OIG Response--Report was revised (page 8) to reflect FMCSA observation.]***

- On page 9, box 10, the New York State investigation occurred in the early 1990s, well prior to 1998.***[OIG Response--Reference to New York investigation was retained. New York State officials report that arrests occurred in 1999.]***
- On page 12, line 1, in footnote 3, the reference to the requirement to check CDLIS before issuing noncommercial driver's license should include both CDLIS and NDR checks as required in section 204 of the Motor Carrier Safety Improvement Act of 1999.***[OIG Response--Footnote was revised (page 12).]***
- On page 24, line 15, and in the second bullet on page 25, reference is made that 23 states do not meet the Federal standards for monitoring third-party testers, but that 19 of the 23 states use State employees to co-score with the third-party tester. FMCSA considers independent co-scoring by State examiners to be in compliance as a variation of retesting a sample of drivers who have been tested by the third party. Unlike the retesting, the co-scoring is being performed under the exact same conditions.***[OIG Response--Disagree with FMCSA position on co-scoring. Report was revised (page 25) to reflect FMCSA view and IG position.]***
- On page 28, first paragraph, "neither FMCSA nor its predecessors have used the withholding of Federal highway funds to enforce compliance with CDL provisions." While it is true that no Federal funds have actually been withheld from any State, proceedings have been initiated to withhold Federal funds from several states. These states took corrective actions before the sanction of withholding funds was needed.***[OIG Response--FMCSA information on two States was included in report (page 28).]***
- On page 28, line 19, references are made to \$3 million in high-priority MCSAP funds being used for CDL-related requests in FY 2001 and \$6 million being available for State CDL program improvements in FY 2002. Over \$4 million in high-priority MCSAP funds was used for CDL-related activities in FY 2001. The FY 2002 Appropriations Act provided a total of \$15.8 million from three categories for CDL-related activities. In addition, FMCSA will also issue \$4 million of MCSAP funds to the states in FY 2002 for CDL-related activities.***[OIG Response--Report was revised and updated (page 28) to reflect CDL-specific and CDL-related funding as well as FMCSA plans for FY2002 MCSAP Funding.]***

ACTIONS TAKEN/PLANNED FOR EACH RECOMMENDATION

1. Recommendation: Strengthen the framework for State CDL programs by issuing new or clarifying existing Federal standards that require:

- a. CDL applicants to demonstrate citizenship or legal presence in the United States and residency in the State where the examination takes place.

Response: Concur. As part of the rulemaking on commercial learner's permits, residency and domicile requirements will be clarified and proof of residency will be addressed. An immediate first step will be achieved through the implementing rulemaking for Section 1012 of the USA Patriot Act. Applicants will be required to show proof of U.S. citizenship or legal presence in the U.S. to obtain a CDL with a hazardous materials (HM) endorsement.

- b. Verification of a CDL applicant's Social Security number before a license is issued.

Response: Concur. We know of at least 18 states that use the automated application developed by the Social Security Administration (SSA) and AAMVA to verify an individual's Social Security number (SSN) during the licensing procedure. New Jersey received a grant from FMCSA in FY 2002 to implement the SSN verification application process. A memorandum (April 2002) will be sent to FMCSA's Division Administrators directing them to develop with their states a plan to implement the SSA/AAMVA SSN verification application. States are also being encouraged to apply for CDL grants to pay for costs associated with implementing the process.

- c. Testing protocols and performance-oriented requirements for English language proficiency for CDL applicants.

Response: Concur. FMCSA will propose a regulation to prohibit the use of an interpreter during the CDL basic control skills and on-road skills test and to mandate the use of English for conducting the skills tests.

- d. Successful completion of the CDL knowledge test by applicants before the State issues a learner's permit.

Response: Concur. The implementing rulemaking for Section 1012 of the USA Patriot Act will require all States to issue learner's permits to all non-CDL holders applying for a HM endorsement, and require successful completion of the knowledge test before a permit is issued. The learner's permit rulemaking will propose expanding this requirement to all CDL applicants.

- e. Information on individuals holding a commercial learner's permit.

Response: Concur. The implementing rulemaking for Section 1012 of the USA Patriot Act will require all non-CDL holders applying for a CDL with an HM endorsement to obtain a learner's permit. The rulemaking will also require that a driver history record be established on CDLIS for each driver issued a learner's permit.

- f. Specific training and qualification standards for State and third-party CDL examiners

Response: Concur. FMCSA will address minimum training requirements for State and third-party CDL examiners as part of the rulemaking to implement the revised knowledge and skills test. Working together, FMCSA and AAMVA will revise and strengthen the current CDL examiner-training course that is administered by AAMVA.

- g. The use of covert procedures for monitoring a portion of State or third party CDL examiners.

Response: Concur. FMCSA is researching the covert procedures used by states for monitoring State and third-party examiners. Once the research is completed, FMCSA will issue a policy memorandum in FY 2002 endorsing covert procedures for monitoring State and third-party examiners, with examples of "best practices" as the preferred method. The memo will also direct FMCSA field staff to update State compliance data with the third-party standard.

2. Recommendation: Improve FMCSA's oversight of the State CDL programs for testing and licensing commercial drivers by:

- a. Establishing requirements for annual certifications by the State to ensure that the certifications have an appropriate basis in terms of documented reviews and monitoring programs.

Response: Concur. FMCSA now requires that all states with noncompliance issues list those issues on the State's CDL certification. Starting in FY 2003, states must provide progress reports on the corrective actions. In addition, in FY 2003, FMCSA will require that states review their CDL programs using the CDL indicator (an assessment tool developed for FMCSA's compliance review process). States will be required to submit a copy of the indicator results along with their CDL certification before January 1 of each year.

- b. Expanding the scope of Federal oversight reviews of the State CDL programs to include:

- (1) The conduct of a nationwide or multi-State review targeted at State monitoring of third-party testers that ensures compliance with Federal standards in this area.

Response: Concur. FMCSA is working with AAMVA to develop “best practices” for monitoring third-party CDL skills test examiners. A draft “auditing best practices” has recently been developed. As an outgrowth of the cooperative effort with AAMVA to revise and strengthen the CDL knowledge and skills tests, rulemaking will be developed by FMCSA to further strengthen the requirements for states to monitor both State and third-party skills test examiners.

As part of FMCSA’s compliance review program, we have identified State problems that, after further investigation, appear to be multi-State or national issues. When the issues are widespread, we have issued directives or policies requiring the states to take corrective action. Though our review program is primarily compliance and enforcement based, we have also discovered many best practices employed by the states and are compiling this list for placement on the Internet to share with all states.

- (2) Establishing a Federal Technical Advisory Group for CDLs to promote the exchange of information among Federal officials on pitfalls and best practices in conducting reviews of State CDL programs.

Response: Concur. In our four Service Centers one high-level manager participates in the State CDL reviews in his or her Service Center area and attends FMCSA’s yearly training sessions. Additionally, they are able to receive crosstraining and gain a better understanding of different geographical concerns by attending and conducting CDL reviews in other Service Center areas. These managers serve as an advisory group on CDL issues and are expected to augment the “best practices” listing that FMCSA will publish on the Internet. This Technical Advisory Group may be further expanded as needed to include other field personnel.

- (3) Monitoring by FMCSA of CDL testing and licensing data to target vulnerable areas and if needed conducting multi-State reviews.

Response: Concur. FMCSA is assembling an Interagency CDL Fraud Task Force to develop countermeasures for conditions that foster and promote identity fraud. The information developed by this task force will be incorporated into the agency’s yearly CDL compliance review training course for Service Center and Division personnel to assist in targeting vulnerable areas. We have also placed on our secure Web

site AAMVA electronic transaction reports that will allow us to continuously identify State noncompliance areas by reviewing the transmission of driver data. We currently review this data before conducting our State compliance reviews, but will now review the information on a periodic basis.

- (4) The use of an improved assessment tool for oversight reviews that gauges the adequacy of State systems for detecting and preventing CDL improprieties. The assessment tool should measure and promote the adoption by the State of useful control techniques such as randomizing written test questions, tracking CDL test by examiner number, post-transaction checks, and the covert monitoring of driver examiners.

Response: Concur. FMCSA agrees that the CDL Compliance indicator needs to be modified and updated. FMCSA plans to put together a team of headquarters and field personnel, staff from AAMVA, and our CDL compliance review contractor to modify and augment the existing compliance tool. The improved tool will incorporate requirements based upon recent legislation and policy changes. It will also better gauge the adequacy of State systems, oversight and analysis to detect and prevent CDL improprieties. The team will also determine if there are additional data reporting requirements relative to State activities that FMCSA should initiate to allow Federal and State monitoring to quickly detect and review areas of possible CDL improprieties. We are also providing grants to the states to enable them to purchase automated testing equipment that will allow the use of software developed by AAMVA that randomizes the test questions prior to each test conducted. We will assess the level of voluntary compliance with test question randomization before issuing a directive for mandatory compliance.

3. Recommendation: Ensure that problems identified in Federal oversight reviews of State CDL programs are corrected by:
 - a. Timely completion of reports on oversight reviews so that states are aware of actions required.

Response: Concur. The training of personnel, the planning and scheduling of the reviews, the conduct of the reviews themselves, and the subsequent negotiation process with the states to arrive at a satisfactory action plan does take time. FMCSA will continue to search for ways to abbreviate what is currently a necessarily protracted process.

- b. Establishing a tracking system for following up on the status of actions required by states.

Response: Concur. FMCSA has established a secure Web site to track the progress of reviews. The Web site is being used to track actions taken by states to correct deficiencies found during all FY 2001 and FY 2002 compliance reviews. As part of an improved and upgraded procedure, a follow-up review is conducted within 1 year of the completion of the CDL compliance review to ensure that compliance issues have been corrected or are on schedule to be corrected. These “process reviews” are also being tracked on the secure Web site.

- c. Using sanctions when necessary to deal with noncompliance and promote corrective actions.

Response: Concur. Sanctions will be taken against states that fail to submit acceptable action plans or fail to correct deficiencies within agreed-upon time frames. FMCSA did formally notify two jurisdictions that steps were initiated to withdraw Federal funds for failure to be in substantial compliance (Louisiana and District of Columbia). In both cases, corrective action was taken to bring the States into substantial compliance before funding was actually withdrawn.

Exhibit E. State and Third-Party CDL Examiners

Exhibit E provides the textual translation for Figure 2, located on page 3 of the Report. The information on State and third-party CDL Examiners provided in Figure 2 is the following.

The 7 States reporting using only third-party examiners were Indiana, Louisiana, Michigan, Massachusetts, New Mexico, Idaho, and Washington.

The 32 states (including the District of Columbia) reporting using both third-party and State examiners were Alabama, Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Wyoming, Utah, Virginia, West Virginia, and Wisconsin.

The 12 States reporting using only State examiners were Connecticut, Delaware, Iowa, Maine, Montana, New Hampshire, New Jersey, New York, North Dakota, Rhode Island, Texas, and Vermont.