

Arizona Department of Transportation Motor Vehicle Division's (MVD) Oversight of Commercial Driver License (CDL) Examination Third Parties

MVD failed to timely inspect some contracted CDL providers and examiners and did not consistently take remedial action to address inspection violations, potentially jeopardizing the safety of drivers, pedestrians, and bus passengers, including schoolchildren, in Arizona and nation-wide

Performance Audit

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A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





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August 25, 2023

Members of the Arizona Legislature

The Honorable Katie Hobbs, Governor

Ms. Jennifer Toth, Director
Arizona Department of Transportation

Transmitted herewith is the Auditor General's report, *A Performance Audit of the Arizona Department of Transportation—Motor Vehicle Division's (MVD) Oversight of Commercial Driver License (CDL) Examination Third Parties*. This report is in response to a December 17, 2020, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Department of Transportation agrees with all the findings and plans to implement all the recommendations. My Office will follow up with the Arizona Department of Transportation in 6 months to assess its progress in implementing the recommendations. I express my appreciation to Director Toth and Department staff for their cooperation and assistance throughout the audit.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General

Arizona Department of Transportation Motor Vehicle Division's (MVD) Oversight of Commercial Driver License (CDL) Examination Third Parties

MVD failed to timely inspect some contracted CDL providers and examiners and did not consistently take remedial action to address inspection violations, potentially jeopardizing the safety of drivers, pedestrians, and bus passengers, including schoolchildren, in Arizona and nation-wide

Audit purpose

To determine whether MVD inspected CDL providers and examiners within federally required time frames and consistently took remedial action in response to inspection violations it identified.

Key findings

- Statute authorizes the Department to contract with other entities (CDL providers), including school districts and private companies, to administer CDL skills tests to CDL applicants. CDLs are required for individuals to operate commercial motor vehicles, such as large trucks; school and passenger buses; and vehicles carrying hazardous materials. Federal regulations require states to inspect CDL providers and their examiners every 2 years and take prompt remedial action when they identify noncompliance with federal and State requirements.
- Failure to timely inspect and take remedial action against CDL providers and examiners may jeopardize public safety. MVD's inspections regularly identify violations that if not identified and timely addressed, could allow unqualified or potentially unsafe individuals to receive a CDL thereby jeopardizing the safety of drivers, pedestrians, and bus passengers, including schoolchildren, in Arizona and nation-wide.
- As of December 2022, MVD did not inspect 19 percent of CDL providers and 56 percent of CDL examiners at least once every 2 years as required. MVD attributes some inspection delays to staffing, but data discrepancies and lack of inspection tracking and monitoring contributed to untimely inspections.
- MVD has not consistently taken remedial action to address violations identified during inspections, including:
 - Not receiving information from CDL providers demonstrating how violations would be addressed and prevented from reoccurring.
 - Failing to monitor and follow through on most remedial actions it took in response to violations.
- MVD has not established comprehensive processes to appropriately and consistently take remedial actions to address identified violations.

Key recommendations

MVD should:

- Inspect CDL providers and examiners every 2 years and develop and implement written policies and procedures for tracking and monitoring inspections.
- Develop and implement written policies and procedures for taking consistent and appropriate remedial action in response to identified inspection violations.



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The Arizona Auditor General has released the second in a series of 3 audit reports of the Arizona Department of Transportation (Department) as part of the Department's sunset review. This performance audit determined whether the Department's Motor Vehicle Division (MVD) inspected commercial driver license (CDL) examination providers and examiners within federally required time frames and consistently took remedial action in response to inspection violations it identified. The first audit determined whether MVD ensured authorized third parties issued vehicle titles, registrations, driver licenses, and identification cards only to qualified applicants and whether MVD implemented an effective quality assurance process to ensure third parties complied with minimum standards. The final audit report will provide responses to the statutory sunset factors.

Department's MVD licenses individuals to operate commercial motor vehicles, including buses, which pose several risks to public safety

MVD responsible for licensing commercial motor vehicle drivers—MVD is 1 of the Department's 9 divisions and is responsible for carrying out the Department's statutory responsibility to provide various driver and vehicle services to the public, including licensing commercial motor vehicle drivers (see textbox, page 2, for definitions of commercial motor vehicles and example photographs). Statute requires individuals to obtain a CDL to operate a commercial motor vehicle.¹ In addition, federal regulations and State statute require individuals to pass both a written knowledge test and a skills test that meet federal minimum standards to obtain a CDL.^{2,3} Federal regulations and Department policy require the CDL skills test to be administered in 3 parts—vehicle inspection, basic vehicle control, and on-road driving.^{4,5} As of June 2023, the State has issued 121,620 licenses to individuals to operate a commercial motor vehicle.⁶

Commercial vehicles pose several public safety risks—According to the U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA), although commercial vehicles such as large trucks and buses comprised approximately 5 percent of all registered vehicles in the U.S. in calendar year 2020, they accounted for a higher proportion of miles traveled and accidents, including accidents involving

¹ Arizona Revised Statutes (A.R.S.) §28-3223.

² According to 49 Code of Federal Regulations (CFR) 383.25 and the Arizona CDL manual, first-time CDL applicants are first required to pass a knowledge test to obtain a learner's permit, and CDL applicants must have the learner's permit for 14 days prior to taking the skills test. The Arizona CDL manual, prepared by the American Association of Motor Vehicle Administrators (AAMVA) and adopted by the Department, was developed as guidance for MVD customers on how to acquire and obtain a learner's permit and CDL. AAMVA is a nonprofit organization that develops model programs in motor vehicle administration, law enforcement, and highway safety. Arizona is a member of AAMVA and, as of June 2023, the MVD Director was a member of 1 of AAMVA's 4 regional Boards of Directors. See American Association of Motor Vehicle Administrators. (2005a). *Arizona commercial driver license manual*. March 2023 version. Arlington, VA. Retrieved 5/22/2023 from <https://azdot.gov/mvd/services/driver-services/commercial-driver-license/tests-and-manuals/commercial-driver-license>.

³ A.R.S. §28-3223(A).

⁴ Individuals who operate some commercial motor vehicles are required by 49 CFR 383.93 to pass additional specialized tests to obtain an endorsement to operate a specific type of commercial motor vehicle, such as for a passenger or school bus.

⁵ 49 CFR 383.113 requires skills tests to cover vehicle inspection, basic vehicle control, and on-road driving, and the Arizona CDL examiner manual (examiner manual) requires administering the skills test in 3 parts. The examiner manual, prepared by AAMVA and adopted by the Department, was developed to help examiners meet federal standards when assessing applicants' knowledge and skills necessary for the operation of commercial vehicles. According to the CDL provider contract, all CDL skills tests must be conducted in accordance with the examiner manual. See American Association of Motor Vehicle Administrators. (2005b). *Arizona commercial driver license examiner manual* CDL testing model, July 2014 version. Arlington, VA.

⁶ According to 49 CFR 383.21, individuals are prohibited from having more than 1 CDL at a time.

fatalities.⁷ Specifically, in calendar year 2020, large trucks and buses accounted for more than 10 percent of the approximately 2.9 billion miles traveled by all vehicles in the U.S. See Figure 1 for additional statistics from FMCSA on large trucks and buses.

Definitions of commercial motor vehicles and example photographs

Commercial motor vehicles are motor vehicles, or combinations of motor vehicles, that are used in commerce to transport passengers or property.¹ Commercial vehicles include any of the following:



A motor vehicle or combination of motor vehicles that has a gross combined weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.



A motor vehicle or combination of motor vehicles that is used to transport materials found to be hazardous for the purposes of the hazardous materials transportation.



A bus, which is a motor vehicle designed for carrying 16 or more passengers, including the driver.

¹ According to A.R.S. §28-101(16), a combination of vehicles is a truck or truck tractor and semitrailer and any trailer it tows. Source: Auditor General staff review of A.R.S. §§28-3001(3) and 28-101(12) and (16), and Department-provided photographs.

Figure 1

Although commercial vehicles accounted for 5 percent of all vehicles, they accounted for a higher proportion of accidents, including those that involved injuries or fatalities¹

Calendar year 2020

(Unaudited)



8%

of 5.2 million nonfatal crashes in the U.S. involved large trucks and buses.



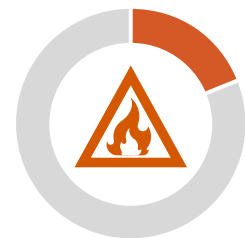
13%

of 35,700 fatal crashes in the U.S. involved a large truck or bus.²



7%

of 1.6 million injury-related crashes in the U.S. involved a large truck or bus.



19%

of 2,958 truck crashes resulted in cargo being released, such as flammable liquids, gases, or corrosives.

¹ These percentages and statistics represent approximate values.

² Of the 155 fatal crashes involving buses, nearly 30 percent specifically involved a school bus.

Source: Auditor General staff review of FMCSA's Pocket guide to large trucks and bus statistics. FMCSA, 2022.

⁷ Federal Motor Carrier Safety Administration. (2022). *Pocket guide to large trucks and bus statistics*. Washington, DC: U.S. Department of Transportation. Retrieved 3/8/2023 from https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2022-12/FMCSA%20Pocket%20Guide%202022-FINAL%20508%20121922_0.pdf.

Statute authorizes Department to contract with third parties to test CDL applicants

Statute authorizes the Department to contract with third parties to perform some services on behalf of the State, including administering CDL skills tests to CDL applicants, and the Department is statutorily required to supervise and regulate all contracted third parties.⁸ Additionally, the Department certifies the individuals who work for or are contracted with the contracted third party to perform the specified services.⁹ The Department's MVD carries out these responsibilities. Contracted third parties and their certified individuals must follow all State and federal laws, Department rules, and contract provisions.¹⁰ According to MVD data, as of December 2022, MVD contracted with 53 third-party CDL examination providers (CDL providers) and certified 152 CDL examiners who work for or are contracted with these providers to administer skills tests to CDL applicants (see textbox for more information on CDL providers and examiners).^{11,12}

CDL applicants can complete their CDL skills test at an MVD field office or a third-party CDL provider.¹³ After completing and passing the skills test with a third-party CDL provider, individuals must visit an MVD field office to obtain their CDL.

MVD is required to periodically inspect third-party CDL providers and monitor CDL examiners to ensure compliance with federal and State requirements

Federal regulations require MVD to periodically conduct inspections of third-party CDL providers and monitor CDL examiners to ensure the integrity of the State's CDL skills testing program. According to

Key terms

CDL providers—Entities contracted with MVD that employ/contract with certified CDL examiners to administer CDL skills tests on behalf of the State. CDL providers include a variety of entities, such as public school districts that test prospective school bus drivers; a State university that provides CDL skills tests to its employees; and private trucking schools and community college districts that offer CDL classes and skills tests to the public.¹

CDL examiner—Individuals certified by MVD and employed by/contracted with CDL providers who administer CDL skills tests to CDL applicants.²

¹ Some CDL providers are considered open to the public, whereas others, such as public school districts, are closed to the public and provide testing only to their employees, such as prospective school bus drivers.

² In addition to the standard certification requirements (see footnote 9), CDL examiners must meet additional certification requirements, such as possessing a CDL, having a minimum of 3 years of experience operating the same type of commercial vehicle for which they are seeking certification to administer tests, and completing required training (see Finding 2, page 13, for more information on the required training).

Source: Auditor General staff review of 49 CFR 383.5, AAC R17-7-101 and R17-7-604, MVD's website, and CDL providers' websites.

⁸ A.R.S. §§28-5101(A), 28-5102(A), and 28-5101.03.

⁹ According to Arizona Administrative Code (AAC) R17-7-301, the Department may certify individuals to provide services for a third-party provider if they meet various requirements, including submitting an application outlining the services for which the applicant is seeking certification, a full set of fingerprints for a criminal history records check, being employed by or contracted with a third party, and not having any driver license suspensions, revocations, or cancellations within 39 months of applying, including not having convictions such as driving under the influence or reckless driving.

¹⁰ AAC R17-7-204(A).

¹¹ The CDL provider contract is effective for up to 3 years and can be extended for an additional term up to 3 years before needing to be renewed.

¹² MVD was unable to identify a complete population of active CDL providers and examiners because of data discrepancies between its information technology (IT) systems and inspection-tracking spreadsheet (see Finding 1, page 10, for more information about inaccurate information we identified in MVD's data). As a result, the number of contracted CDL providers and certified examiners was based on our analysis of 3 MVD systems but may not include the complete population.

¹³ 49 CFR 383.75 requires CDL skills tests administered by third parties to be the same as those administered by the State, including using the same written instructions and scoring sheets.

federal regulations, states must conduct unannounced, on-site inspections of third-party CDL providers' and examiners' records at least once every 2 years with a focus on examiners with irregular results such as unusually high or low pass/fail rates.¹⁴ Additionally, federal regulations require states to conduct covert and overt monitoring of CDL examinations performed by each certified third-party CDL examiner at least once every 2 years.¹⁵ Further, federal regulations require states to do 1 of the following for each certified third-party CDL examiner at least once every 2 years:¹⁶

- **Covert inspection**—State employees covertly take the tests administered by the third-party examiner as if the State employee were a test applicant.
- **Coscore inspection**—State inspector simultaneously scores a CDL skills test along with the third-party examiner and compares pass/fail results.
- **Retests**—Retest a sample of drivers who were examined by the third-party examiner to compare pass/fail results.

See Finding 1, pages 6 through 11, for more information on our findings related to MVD's compliance with these inspection requirements, including time frames.

Additionally, MVD has established some processes, policies, and procedures for on-site inspections of CDL providers and coscore inspections of CDL examiners (see Figure 2, page 5, for more information on the inspection process). These inspections assess the CDL provider's and examiner's compliance with federal and State requirements, such as whether the scoresheets used during the skills tests are completed and accurate, or whether examiners follow all safety requirements when administering a skills test. See Finding 2, pages 12 through 18, for information on our findings related to MVD's process for taking enforcement action in response to inspection violations it identified.

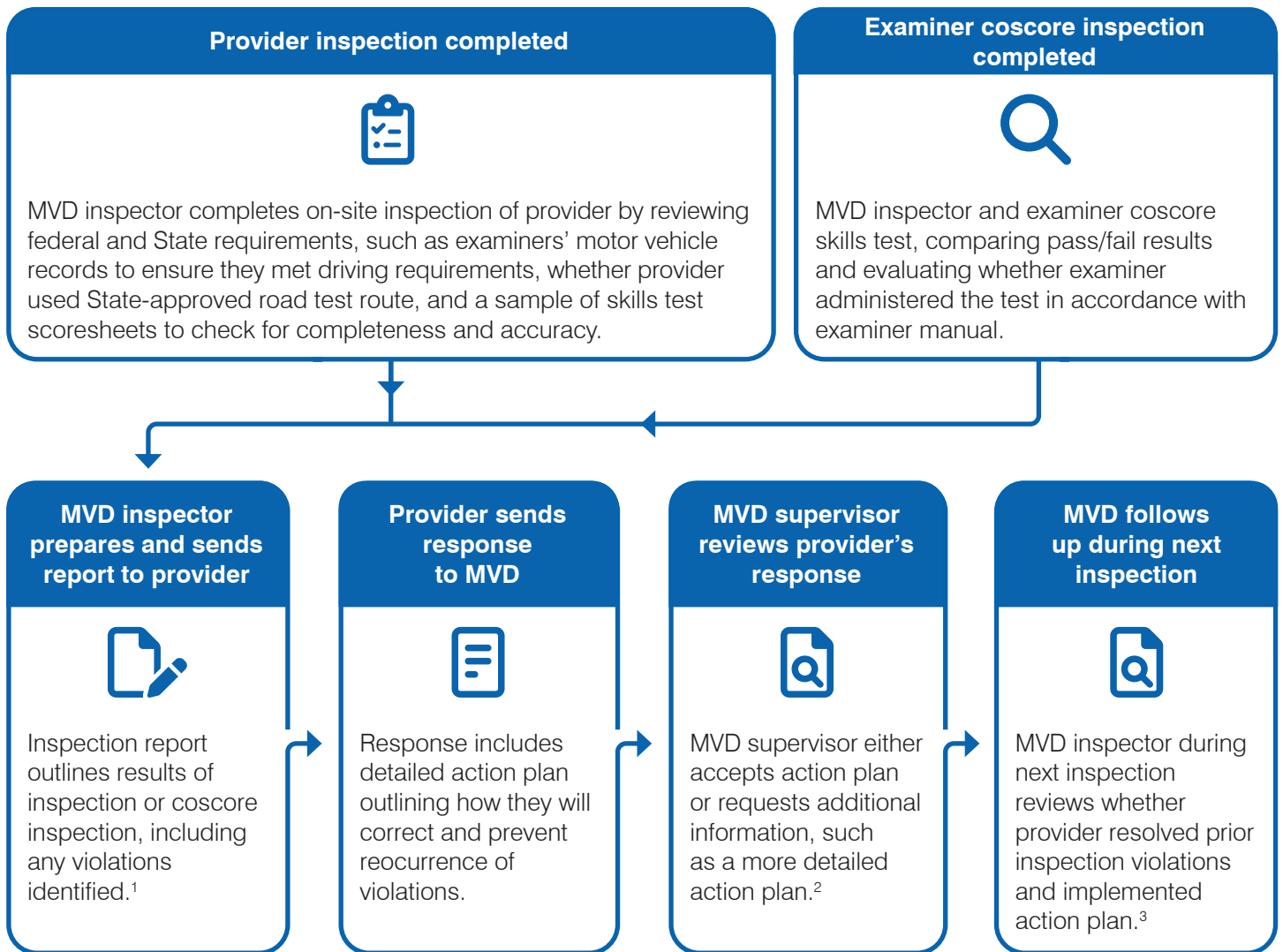
¹⁴ 49 CFR 384.229(a) and 49 CFR 383.75(a)(2).

¹⁵ 49 CFR 384.229(b).

¹⁶ 49 CFR 383.75(a)(5).

Figure 2

MVD’s process for completing CDL provider/examiner inspections, reporting violations to CDL providers, and reviewing action plans on correcting and preventing reoccurrences of violations



¹ For examiner coscore inspections, the inspector sends the report to the CDL provider that employs/contracts with the examiner.

² See Finding 2, pages 12 through 18, for more information about MVD failing to receive additional requested information and not holding CDL providers and examiners accountable for identified inspection violations.

³ See Finding 1, pages 6 through 11, for more information on how MVD did not timely complete some CDL inspections.

Source: Auditor General staff review of MVD's CDL inspection procedures and inspection reports, and interviews with MVD staff.



MVD has not inspected some CDL providers and examiners at least once every 2 years or used some inspection methods as required by federal regulations, putting public safety at risk

MVD required to inspect CDL providers and examiners at least once every 2 years, including conducting unannounced provider inspections and covert and overt examiner inspections

Federal regulations require MVD to conduct unannounced, on-site inspections of CDL providers' and examiners' records at least once every 2 years and to conduct covert and overt monitoring of each certified CDL examiner at least once every 2 years, such as by conducting a coscore inspection (see Introduction, pages 3 and 4, for more information on coscore inspections and other options used for covert and overt monitoring).¹⁷ MVD's procedures for CDL inspections state that it will inspect each CDL provider and complete a coscore inspection of each MVD-certified CDL examiner at least once every 2 years.

In May 2021, FMCSA issued a notice allowing states to postpone inspections impacted by the COVID-19 pandemic (see textbox for more information).

Federal extension granted for some CDL inspections

A May 2021 notice issued by FMCSA granted states extensions for completing required CDL provider and examiner inspections. Specifically, inspection due dates for CDL provider and examiner inspections due between January 1, 2020 and August 31, 2021, could be extended to December 31, 2021.

Source: Joshi, M. (2021). *May 26, 2021, Notice of Enforcement Discretion Determination Concerning Certain Requirements for States in 49 CFR Parts 383 and 384*. Washington D.C.: U.S. Department of Transportation. Retrieved 11/30/2022 from https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-05/NEDD_for_SDLAs_-_Parts_383-384_General_Provisions_-_May_26_2021.pdf.

MVD did not inspect some CDL providers and most CDL examiners within federally required time frames and did not conduct unannounced provider inspections or covert examiner inspections

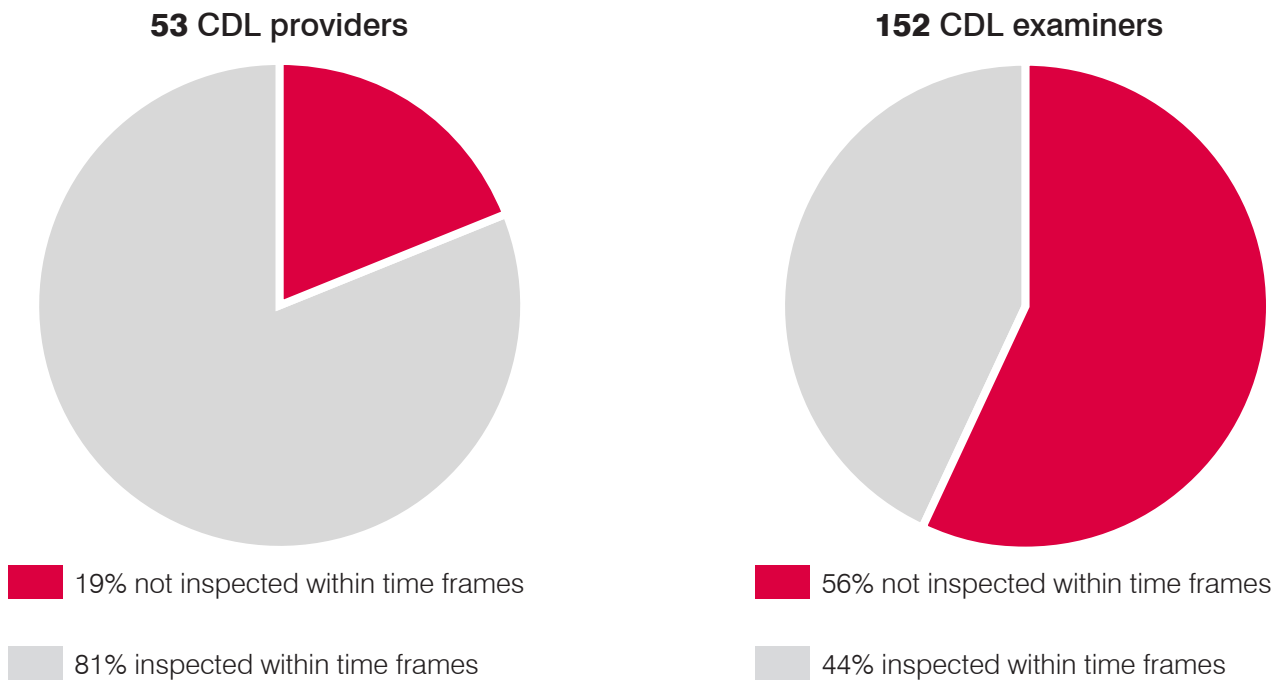
Our analysis of MVD's inspection scheduling data and inspection reports found that, as of December 2022, it had not inspected 19 percent of CDL providers and 56 percent of CDL examiners within federally required time

¹⁷ 49 CFR 383.75 directs states to focus on examiners that have irregular results, such as unusually high or low pass/fail rates.

frames (see Figure 3 for more information) and had not used some inspection methods required by federal regulations.¹⁸ Specifically, MVD:

- **Had not completed inspections of 10 of 53 active CDL providers, or approximately 19 percent, within the 2-year federally required time frame or extension period**—These 10 CDL providers were between 33 and 356 days overdue for an inspection. For example, 5 Arizona public school districts that conduct skills tests for prospective school bus drivers were overdue for an inspection for between 56 and 356 days.
- **Had not completed inspections of 85 of 152 active CDL examiners, or approximately 56 percent, within the required time frame or extension period**—These 85 CDL examiners were between 63 and 640 days overdue for an inspection. For example, 2 examiners who work for Arizona public school districts were last inspected in 2017 and should have received an inspection no later than 2019.¹⁹ However, as of the time of our review in December 2022, these 2 CDL examiners had not yet received an inspection subsequent to 2017.

Figure 3
MVD had not timely inspected 19 percent of CDL providers and 56 percent of CDL examiners, as of December 2022



Source: Auditor General staff review of MVD’s inspection scheduling data containing CDL providers’ and examiners’ last inspection dates.

- **Had not conducted any unannounced provider inspections or covert examiner inspections, as required by federal regulations**—Although federal regulations require MVD to conduct on-site, unannounced inspections of CDL providers’ records every 2 years, MVD reported it notified CDL providers prior to conducting its inspections during fiscal years 2021 and 2022. Additionally, despite being required

¹⁸ We conducted our analysis using data from a scheduling system that MVD uses to track and schedule CDL inspections. However, we identified some data discrepancies between the scheduling system and another MVD data system and an inspection-tracking spreadsheet; therefore, the scheduling system may not have contained all CDL providers and examiners that were overdue for an inspection (see pages 9 and 10 for more information on the scheduling system and the discrepancies we identified).

¹⁹ These 2 examiners were overdue for an inspection by 385 and 613 days, respectively, which considers the extension period granted by FMCSA.

by federal regulations to conduct both covert and overt monitoring of CDL examiners every 2 years, our review of inspection reports for 18 CDL examiner inspections MVD conducted in fiscal years 2021 and 2022 found that MVD conducted only overt coscore inspections during this time frame, meaning that the examiners were aware they were being inspected.

MVD's failure to timely inspect CDL providers and examiners puts drivers', passengers', and pedestrians' safety at risk

MVD's failure to timely inspect CDL providers and examiners to identify and prevent potential violations, including not conducting unannounced and covert inspections, may jeopardize the safety of drivers, pedestrians, and commercial vehicle passengers, including schoolchildren, in Arizona and nation-wide. MVD's inspections of CDL providers and examiners regularly identify violations that, if undetected, could result in unqualified and potentially unsafe individuals receiving a CDL. Specifically, our review of reports for 37 inspections MVD conducted in fiscal years 2021 and 2022 found that MVD identified violations in each inspection, including examiners prompting applicants during skills tests and incorrectly scoring applicants by giving credit for skills not performed, and providers failing to retain documentation that their certified examiners met all applicable requirements to be an examiner.²⁰ These violations were identified only because MVD conducted an inspection. For example, in 1 inspection report we reviewed, the MVD inspector reported that an examiner was planning to pass an applicant who committed multiple moving violations during the skills test, including encroaching into an adjacent traffic lane and attempting to turn through a crosswalk while a pedestrian was in the crosswalk. The examiner changed the applicant's score from pass to fail only after reviewing the applicant's scoresheet with the MVD inspector (see Finding 2, page 15, for more information).

MVD's failure to timely inspect CDL providers and examiners may also have allowed violations of CDL examination requirements that are important for ensuring CDL recipients possess the necessary skills to safely operate commercial vehicles to go undetected, in some cases for over 1 year. Specifically, our review of MVD's inspection scheduling data found that examiners employed by or contracted with 9 of 10 providers that were overdue for an inspection as of December 2022 administered between approximately 14 and 2,727 skills tests while the provider was overdue for an inspection.²¹ For example, a trucking school's examiners administered approximately 2,727 skills tests during the 341 days it was overdue for an inspection. Additionally, 76 of 85 examiners administered at least 1 to 780 skills tests while they were overdue for an inspection as of December 2022.²² For example, 1 examiner who worked for a trucking school individually administered approximately 780 skills tests during the 355 days they were overdue for an inspection. The providers and examiners that were overdue for an inspection as of December 2022 included 5 Arizona public school districts or transportation contractors and 29 examiners that administered CDL skills tests to prospective school bus drivers.

In addition, by not using all the inspection methods required by federal regulations, MVD may limit its ability to identify and prevent additional CDL inspection violations. For example, announcing CDL provider inspections may give a provider the opportunity to temporarily resolve any existing violations prior to the inspection to pass, without making any necessary changes to its processes that could result in the violations reoccurring after the inspection. Additionally, overt inspections could allow examiners to modify their behavior because they know they are being inspected. Conversely, covert inspections could allow inspectors to observe examiners' actions as they normally occur without the examiner's knowledge that they are being inspected, diminishing the risk that the examiner changes their behavior in response to being inspected.

²⁰ Prompting or coaching applicants is prohibited by the examiner manual because it provides details or instructions to the applicant on actions to take during the skills tests that they may have forgotten or not have known.

²¹ As previously discussed in the Introduction (see page 1), the CDL skills test is administered in 3 parts. The AAMVA scheduling system records the number of exams an examiner conducted for each of the 3 parts. As such, these numbers presented are the part of the test where the providers' examiners conducted the most tests. See pages 9 and 10 for more information about the AAMVA scheduling system.

²² The number of skills tests represents the tests administered by the 75 examiners at their main provider's location. However, examiners can conduct skills tests at other provider locations and these tests are not reflected in the total. Additionally, the number of skills tests presented are the part of the test where the examiner conducted the most tests (see footnote 21).

MVD attributed some inspection delays to staffing allocation, but data discrepancies and lack of inspection tracking and monitoring contributed to untimely inspections and its procedures were inconsistent with federal regulations

- **MVD reported that lack of inspection staff and their work location contributed to untimely inspections but it has not made changes to address this issue**—As of April 2023, MVD had assigned 2 staff members to conduct CDL provider and examiner inspections, and these 2 staff members also had other job responsibilities.^{23,24} Additionally, these 2 staff members were located in the Phoenix metropolitan area and having to travel to other parts of the State to complete inspections could cause inspections to be delayed. Although an MVD supervisor reported they completed an informal staffing analysis to identify how many staff members are needed to complete timely inspections, they could not provide documentation of the analysis or even tell us the number of inspectors they determined it needed to conduct timely inspections.

Additionally, MVD employs CDL examiners (MVD examiners) who work at MVD field offices located around the State who are qualified to conduct inspections of the third-party examiners employed by/contracted with CDL providers. However, MVD has not used MVD examiners to do so, despite having identified this as a potential option as early as August 2017. Specifically, in October 2016, the Department's internal auditors reported that MVD was likely to be untimely in completing coscore inspections of third-party examiners and found that only 1 MVD inspector was responsible for conducting these inspections.²⁵ An August 2017 followup to this internal audit found that all third-party examiners had received an inspection within the 2-year requirement as of February 2017 and indicated MVD had cross-trained MVD examiners to assist in completing coscore inspections. Despite the internal auditors reporting that MVD examiners were cross-trained, MVD reported it has not historically used MVD examiners to assist in coscore inspections because staffing needs for MVD field offices were higher. During the audit, MVD drafted new position descriptions for MVD examiners that require them to conduct coscore inspections of third-party examiners as part of their regular job duties and reported that it started training MVD examiners and piloting using them to complete coscore inspections in May 2023.

Further, MVD has not developed guidance for its staff to prioritize CDL providers and examiners for inspections when multiple CDL providers and examiners are due for an inspection. For example, as previously discussed (see page 7), 85 examiners were overdue for an inspection but MVD lacked guidance on how staff should prioritize those examiners to reduce risk to the public, including focusing on examiners with irregular results such as unusually high or low pass/fail rates as required by federal regulations, or focusing on those examiners who have been overdue for the longest amount of time, those who conduct the most skills tests, or those who work for Arizona public school districts.

- **MVD reported that system limitations contributed to untimely inspections, and it lacked policies and procedures for tracking and monitoring inspections**—MVD uses an IT scheduling system from AAMVA (AAMVA scheduling system) to identify CDL providers and examiners due for an inspection, including identifying when examiners are scheduled to administer a CDL skills test that an MVD inspector can coscore.^{26,27} Although MVD has developed some written policies and procedures that outline how it

²³ MVD reported it hired 2 staff members in January and April 2023, in addition to the 2 staff members already assigned to CDL inspections as of April 2023. According to MVD, although these staff members will be trained at a later date to complete CDL inspections, they have not yet started this training.

²⁴ Our review of 37 inspection reports from fiscal years 2021 and 2022 identified 5 different inspectors that had completed CDL inspections. However, according to MVD, as of May 2023, 3 of the 5 inspectors were no longer employed with MVD.

²⁵ At the time of the October 2016 internal audit, the Department reported there were 222 active third-party examiners.

²⁶ Most states including Arizona use a scheduling system provided by AAMVA and paid for using federal grant monies, which tracks the scheduling of skills tests and test results (see footnote 2, page 1, for more information about AAMVA).

²⁷ The CDL contract requires skills tests to be scheduled and entered into the system at least 2 business days in advance.

should use the AAMVA scheduling system to identify CDL providers and examiners needing an inspection, MVD reported that limitations with the AAMVA scheduling system can prevent it from timely identifying an appropriate date to complete the inspections. Specifically, MVD staff stated the system does not have the functionality to provide notifications when examiners who are due for an inspection have scheduled a date for a CDL skills test, which the inspector could attend and coscore at the same time. As a result, MVD staff stated that they may miss opportunities to conduct inspections. Instead, MVD reported in March 2023 that its staff will monitor the AAMVA scheduling system every other day to identify examiners who require inspections, but this process is not yet documented in MVD's policies and procedures.

In March 2023, MVD staff also reported that AAMVA was in the process of modifying the AAMVA scheduling system to include new functionalities, such as the option to receive alerts when examiners due for an inspection schedule a CDL skills test. According to MVD staff, these modifications will improve its inspectors' ability to identify examiners who need an inspection and have a skills test scheduled that its staff can observe to perform a coscore inspection.

- **Incomplete and inaccurate data entry could limit MVD's ability to track and monitor the timeliness of inspections**—During the audit, MVD was unable to identify the total number of active contracted CDL providers and certified examiners it was required to regulate and oversee because of data discrepancies between 2 IT systems and its inspection-tracking spreadsheet. Specifically, MVD uses 2 IT systems and a spreadsheet to track CDL providers and examiners—1 system to track contractors and their certified employees/contractors, and 1 system and 1 spreadsheet to schedule and track inspections—all of which require MVD staff to manually enter the information.²⁸ Although the 2 systems and spreadsheet should have the same information related to CDL providers and examiners, we found they contained conflicting information. For example, some CDL providers and examiners were missing from at least 1 of the systems, and the active/inactive status for some CDL providers and examiners was different between the systems. These discrepancies could limit MVD's ability to identify the full population of CDL providers and examiners it is required to inspect and to timely conduct the inspections. Although MVD reported correcting these differences after we brought them to MVD's attention, MVD still risks having conflicting information within its 2 IT systems and spreadsheet because MVD lacks written policies and procedures for updating the systems and spreadsheet to identify the total number of active contracted CDL providers and certified examiners it was required to regulate and oversee.

Additionally, our assessment of MVD's timeliness in conducting CDL inspections in accordance with federally required time frames was based on the data within the AAMVA scheduling system. However, we compared information contained in the inspection reports for 37 inspections MVD conducted in fiscal years 2021 and 2022 to information in the AAMVA scheduling system and identified multiple discrepancies. Specifically, the AAMVA scheduling system had inaccurate inspection dates for 5 of 37 inspections, and the examiner's date of certification in the inspection report did not match the AAMVA scheduling system for 14 of the 18 examiner coscore inspections. These data entry errors could impact MVD's ability to inspect CDL providers and examiners in accordance with federally required time frames. For example, in 1 instance, an examiner received an inspection in July 2020, but the system indicated the inspection occurred more than 5 months later, in early January 2021, which could cause MVD to miss the deadline for the examiner's next required inspection by more than 5 months.

- **MVD developed inspection procedures inconsistent with federal regulations**—MVD's CDL inspection procedures direct staff to use inspection methods that are inconsistent with federal regulations. Specifically, although federal regulations state that MVD should conduct unannounced inspections of third-party providers' and examiners' records—including a review of scoring sheets, which MVD conducts during inspections of CDL providers—MVD's CDL inspection procedures direct staff to inform providers of

²⁸ One of the systems used to schedule and/or track inspections is the AAMVA scheduling system, which is used both by MVD staff and the CDL providers and examiners to oversee and schedule CDL skills tests. As such, MVD also has an internal spreadsheet that it reported it uses for its own records to schedule and track inspections.

upcoming inspections at least 10 business days in advance.²⁹ MVD staff reported that they have notified providers of upcoming inspections since at least calendar year 2015 because MVD received complaints from CDL providers about the inability to have adequate staffing and resources available for unannounced inspections. However, federal regulations have required unannounced inspections of providers' and examiners' records since July 2014 and do not include any exemptions from the requirement to conduct unannounced inspections.

Additionally, although federal regulations require MVD to conduct both covert and overt monitoring of examinations performed by third-party CDL skills test examiners at least once every 2 years, MVD's CDL inspection procedures direct staff to use only overt monitoring methods.³⁰ MVD reported it had operated under the belief that it was not required to conduct covert monitoring to comply with federal regulations. As a result of our audit, MVD sought guidance from FMCSA in July 2023 regarding this requirement and reported it was awaiting a response. In August 2023, FMCSA reported to us that MVD is required to conduct both covert and overt monitoring of examinations performed by third-party CDL skills examiners at least once every 2 years.

Recommendations

MVD should:

1. Inspect all CDL providers and examiners at least once every 2 years using all inspection methods as required by federal regulations.
2. Assess the impact of its current number of inspectors on its inspection timeliness and take action as needed to ensure it has a sufficient number of inspectors to conduct inspections of all third-party CDL providers and examiners at least once every 2 years, such as utilizing MVD examiners to complete some coscore inspections of third-party CDL examiners.
3. Continue to consult with FMCSA on how it should comply with all federal regulations related to CDL inspections, such as conducting unannounced inspections of providers' and examiners' records, and covert and overt monitoring of examiners, and incorporate this guidance into its inspection procedures.
4. Develop or update and implement written policies and procedures for tracking and monitoring the timely completion of CDL provider and examiner inspections using all inspection methods required by federal regulations, including:
 - a. Identifying the total number of active contracted CDL providers and certified examiners.
 - b. Accurately recording inspection completion and due dates in the AAMVA scheduling system.
 - c. Using the AAMVA scheduling system to monitor and select CDL providers and examiners for inspections, including time frames for how often staff should review the system to identify when CDL skills tests will be administered to applicants, and how to prioritize providers and examiners for an inspection. As AAMVA makes changes to the AAMVA scheduling system, MVD should modify its policies and procedures to incorporate any new processes for using the system.
 - d. MVD management's review of the completion of CDL provider and examiner inspections at least once every 2 years, using all inspection methods required by federal regulations.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.

²⁹ 49 CFR 384.229(a).

³⁰ 49 CFR 384.229(b).



MVD not holding some CDL providers and examiners accountable for addressing inspection violations may jeopardize public safety

MVD is responsible for taking enforcement action in response to CDL inspection violations it identifies to prevent and/or deter future violations

Federal regulations require MVD to take prompt and appropriate remedial action against any CDL provider that fails to comply with State or federal standards for CDL testing, or with any terms of its contract with MVD.³¹ Additionally, statute and MVD's standard contract for CDL providers outline the various enforcement actions available to MVD if a CDL provider or examiner fails to follow State laws, MVD policy, or contract requirements (see textbox).³² For example, statute states that if the Department Director has reasonable cause to believe a CDL provider or examiner is violating statute, the Director must immediately issue a cease and desist order.³³ Further, according to MVD's CDL provider contract, serious violations that threaten public safety or welfare will result in the immediate suspension or cancellation of a provider's authorization or examiner's certification.³⁴

Enforcement actions available to MVD for addressing CDL provider and examiner inspection violations

- Notice of noncompliance.
- Retraining the provider and/or examiner.
- Probation for the provider and/or examiner.
- Cease and desist order.
- Suspending the provider's authorization or examiner's certification.
- Canceling the provider's authorization or examiner's certification.

Source: Auditor General staff review of A.R.S. §§28-5108, 41-1064, and 28-5109 and the CDL provider contract.

MVD has not held some CDL providers and examiners accountable for violations it identified during inspections

Our review of inspection reports for 37 CDL providers and examiners MVD inspected in fiscal years 2021 and 2022 found that MVD identified violations in all 37 inspection reports but did not consistently hold CDL providers and examiners accountable for addressing the violations it identified.³⁵ Specifically, MVD:

³¹ 49 CFR 383.75.


³² A.R.S. §28-5108.

³³ A.R.S. §28-5109.

³⁴ The CDL provider contract outlines that serious violations include, but are not limited to, fraud in the application, testing, or reporting process; improper testing; failure to follow safety regulations; and improper use or disclosure of personal information in violation of statute.

³⁵ The AAMVA scheduling system reports we used to identify CDL providers' or examiners' inspections conducted in fiscal years 2021 and 2022 listed the most recent inspection MVD conducted as of December 2022. As such, CDL providers or examiners that were inspected in fiscal years 2021 and 2022 for which MVD subsequently conducted an inspection in fiscal year 2023 were not included in our review. Our review included all 37 CDL providers and examiners with inspection dates listed in fiscal years 2021 and 2022 in the AAMVA scheduling system reports, which included 19 CDL provider inspection reports and 18 CDL examiner coscore inspection reports.

- **Did not receive responses from providers for 26 of 37 inspections sufficiently demonstrating how violations would be addressed and prevented from reoccurring**—As previously discussed in the Introduction (see page 5), CDL providers should review and respond to both CDL provider and examiner inspection reports, and an MVD supervisor will review the response to the inspection report and determine whether to accept the action plan as written or request additional information, such as a more detailed action plan explaining how the provider would correct the violations. However, MVD did not receive responses from providers for 26 of 37 inspections with sufficient information demonstrating how violations would be addressed and prevented from reoccurring. Specifically:



26 of 37 inspections lacked responses from providers sufficiently demonstrating how violations would be addressed.

- For 6 of 37 inspections, MVD did not receive an action plan from the provider outlining how it would correct the identified violations and prevent them from reoccurring. For example, during a coscore inspection of an examiner who works for a school district, MVD found that the examiner prompted the applicant multiple times while administering the skills test and incorrectly scored the applicant by giving the applicant credit for skills they did not perform.³⁶ However, MVD did not receive a response or action plan from the provider related to this examiner’s violations.
- For 20 of 37 inspections, MVD did not receive information it directed CDL providers to provide to it to demonstrate how violations would be corrected and prevented from reoccurring. For example, in September 2020, MVD directed a truck driving school to provide it with photographs within 10 days to demonstrate that it had modified the cone placement and boundary lines in its skills test course to comply with requirements in the examiner manual for evaluating applicants’ abilities to maneuver a commercial vehicle. However, at the time of our review in February 2023, MVD could not provide evidence it received the photographs. Additionally, in February 2021, MVD directed a utility company to provide copies of all its contracted/employed examiners’ motor vehicle records by March 2021, demonstrating they met applicable requirements for being an examiner. As of February 2023, the utility company had yet to provide the records.

- **Failed to monitor and follow through on most enforcement actions it issued in response to inspection violations**—As previously discussed in the Introduction (see page 5), MVD’s inspection reports that are sent to CDL providers for response outline the results of the inspection, including violations identified, and may include enforcement action(s), such as recommended retraining for an examiner or other provider employee. Based on our review of the 37 inspection reports, the MVD supervisor’s review of a provider’s response to the inspection report in some cases indicated further action was necessary, such as having examiners retake the 40-hour examiner training class (see textbox for more information on the 40-hour class). However, we found that MVD failed to monitor and follow through on the enforcement actions it indicated it would take to address CDL inspection violations. Specifically:

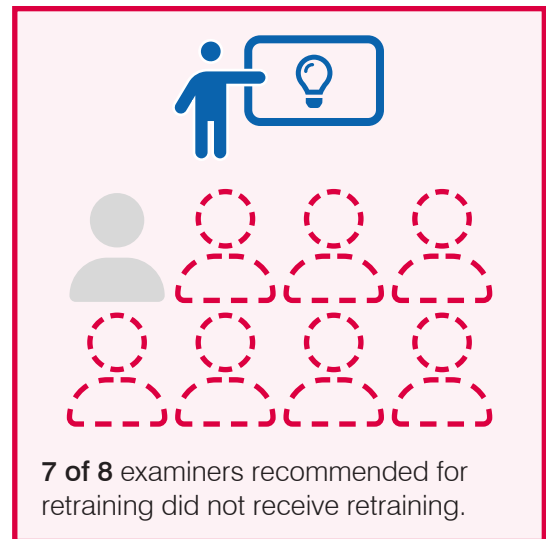
40-hour examiner training class

Examiner applicants are required by federal regulations to take a class covering various topics, including the CDL licensing process and administering and scoring the CDL knowledge and skills tests for certification. To meet these requirements, MVD requires applicants to complete a 40-hour examiner training class and score at least 80 percent on quizzes and a final test to pass the class.

Source: Auditor General staff review of 49 CFR 384.228, the training manual, and AAMVA’s website.

³⁶ Prompting or coaching applicants is prohibited by the examiner manual because it provides details or instructions to the applicant on actions to take during the skills tests that they did not know or may have forgotten.

- For 8 of 37 inspection reports, because of the severity of the violations identified during coscore inspections, MVD inspectors recommended in the inspection report that the examiners retake the 40-hour examiner training class (see page 17 for additional information about MVD staff not knowing whether the retraining was required). For example, the inspector recommended retraining for an examiner who worked for a community college who allowed an applicant to commit a dangerous action by going under the commercial vehicle and also put themselves in danger by adjusting cones on the test site while the commercial vehicle was moving.³⁷ However, MVD training records indicate that 7 of these 8 examiners did not attend the 40-hour examiner training class. These examiners were employed by/contracted with entities such as a trucking school, an Arizona public school district, a community college, and a university. Further, for 2 of these 7 examiners, an MVD supervisor reviewed the provider's response to the inspection report and took further enforcement action by stating these examiners were required to take retraining and were restricted from conducting any additional CDL skills tests until retrained. These 2 examiners committed violations such as putting themselves in danger by standing on the steps of the vehicle during the vehicle inspection test and allowing an applicant to continue testing after committing multiple moving violations during the road test, including attempting to make a turn while a pedestrian was in the crosswalk.³⁸ Approximately 5 months after being inspected, 1 of these examiners no longer had an active certification and had stopped working as an examiner, which could account for why this examiner did not take the retraining. However, the other examiner's certification was still active as of December 2022.



- For 1 inspection, the MVD supervisor reviewed the provider's response and requested additional information, indicating the provider could face enforcement action for failing to provide the requested information. Specifically, as previously discussed on page 13, MVD directed a truck driving school to submit photographs demonstrating it modified its skills test course.³⁹ MVD further stated that failure to provide the photographs would result in the suspension or revocation of the truck driving school's authorization to administer CDL skills tests. However, although MVD did not receive the photographs by its stated deadline, it did not suspend or revoke the truck driving school's authorization. The truck driving school's authorization was still active as of December 2022.

MVD's failure to hold CDL providers and examiners accountable for violations may jeopardize public safety

MVD's failure to hold CDL providers and examiners accountable for violations identified during inspections increases the risk that unqualified individuals receive CDLs and may jeopardize the safety of drivers, pedestrians, and commercial vehicle passengers, including schoolchildren, in Arizona and nation-wide. Specifically, if an examiner has been identified as needing retraining, they are potentially unfit to administer CDL

³⁷ According to the examiner manual, individuals should never get under a vehicle, in front of it, or behind it when there is a chance of the vehicle moving.

³⁸ According to the examiner manual, the examiner is required to stop the test and give the applicant an automatic fail for failing to yield to a pedestrian.

³⁹ According to the examiner manual, exercise dimensions of the skills test course must match the ones in the manual.

skills tests and may allow unqualified drivers to pass the CDL skills test (see textbox for examples of violations identified for examiners who did not take recommended or required retraining). For example, as previously discussed (see page 14), 7 of 8 examiners MVD recommended or required to receive retraining did not receive the retraining. These 7 examiners, who worked for various providers, including an Arizona public school district, collectively conducted over 700 skills tests from the date of their last inspection—which is the date they committed the violations necessitating retraining—to March 2023 (see Table 1, page 16). MVD restricted 1 of these examiners, who worked for a community college, from administering skills tests until they received retraining, but this examiner conducted more than 40 skills tests before MVD notified them about the restriction (see page 17 for additional information).

Examples of violations identified during inspections of examiners who did not take recommended or required retraining

- During a coscore inspection of an examiner who worked for a community college, the MVD inspector reported that the examiner trained an applicant during the road driving test on how to perform maneuvers including left turns, night driving, and what gear the applicant should be in, which is prohibited by the examiner manual.¹ Although the inspector noted these violations in the inspection report and recommended the examiner receive retraining, the examiner passed the applicant, and the applicant obtained their CDL. Approximately 3 months after receiving a CDL, the applicant was involved in a single vehicle accident while maneuvering a commercial vehicle containing hazardous materials during the early morning. Although we asked MVD’s inspector and supervisor on multiple occasions why they would not recommend an examiner change the applicant’s score from pass to fail after identifying violations like those described here, we did not receive any responses.
- During a coscore inspection of an examiner who worked for a university, the MVD inspector reported that the applicant committed multiple moving violations during the skills test, including encroaching into an adjacent traffic lane. Additionally, the applicant attempted to make a turn through a crosswalk but stopped the vehicle only after the examiner pointed out a pedestrian in the crosswalk. However, rather than complying with the examiner manual by automatically failing the applicant and stopping the test, the examiner continued to administer the test and gave the applicant a passing score. After the inspector reviewed the applicant’s scoresheet with the examiner, the examiner changed the applicant’s score from pass to fail.

The MVD inspector recommended this examiner for retraining, and an MVD supervisor also later restricted the examiner from administering exams until they received retraining. Although the examiner has not conducted any skills tests since being restricted, MVD records indicate the examiner has not been retrained and remains an active examiner. Without the benefit of the inspector’s coscore, the examiner would have passed an applicant that demonstrated unsafe driving.

¹ According to the Arizona CDL manual, vehicles that are not in the correct gear while driving will result in the driver having less control of the vehicle.

Source: Auditor General staff review of MVD provided reports, database information, and AAMVA, 2005a.

Table 1

Seven examiners collectively conducted over 700 CDL skills tests since their last inspection without receiving MVD-recommended or required training, as of March 2023

Examiner	Type of provider examiner is employed or contracted with	Last inspection date	Approximate number of skills tests conducted ¹
1	University	July 10, 2020	2 ²
2	School district	July 28, 2021	3
3	Community college	April 6, 2022	25
4	Community college	July 15, 2020	44 ³
5	Trucking school	April 30, 2021	76 ⁴
6	Community college	June 3, 2022	284
7	Trucking school	October 9, 2020	307
Total			741

¹ As previously discussed in the Introduction (see page 1), the CDL skills test is administered in 3 parts. The numbers presented in the table are the part of the test where the examiner conducted the most tests (see footnote 21, page 8), and it may include tests administered on the day of their inspection.

² The examiner conducted these tests prior to their provider being notified by MVD in September 2020 that the examiner was restricted from conducting skills tests. This examiner's certification remained active as of December 2022.

³ The examiner conducted these tests prior to being notified by MVD in September 2020 that they were restricted from conducting skills tests. This examiner's certification was made inactive by MVD approximately 3 months later in December 2020 after the CDL provider they worked for closed.

⁴ This represents the number of skills tests the examiner conducted for the provider they received the inspection for on April 30, 2021. However, this examiner has also performed skills tests for another provider, and any tests that may have been conducted at the other provider during this time frame are not reflected in this total.

Source: Auditor General staff review of MVD records and staff provided information as of March 2023.

MVD has not established comprehensive processes, including policies, procedures, and guidance to appropriately and consistently administer enforcement actions that address identified violations

Inspections are an important tool for monitoring regulated activities, such as CDL inspections, to ensure regulated people/entities are following applicable requirements.⁴⁰ Further, when people/entities are found to have violated requirements and standards, agencies should develop a systematic, fair, and progressively stringent enforcement process to ensure the public is adequately protected.⁴¹ However, MVD lacks comprehensive processes for administering enforcement actions to address CDL provider and examiner inspection violations, including clearly defined roles and responsibilities for staff and associated written policies, procedures, and guidance outlining a process for taking enforcement actions to address identified violations. Specifically, MVD lacks processes and written policies, procedures, or guidance for:

⁴⁰ National State Auditors Association (NSAA). (2004). *Carrying out a state regulatory program: A National State Auditors Association best practices document*. Lexington, KY. Retrieved 2/13/2023 from https://www.nasact.org/files/News_and_Publications/White_Papers_Reports/NSAA%20Best%20Practices%20Documents/2004_Carrying_Out_a_State_Regulatory_Program.pdf.

⁴¹ NSAA, 2004.

- **Tracking and monitoring receipt of provider responses to inspection violations, including planned corrective actions**—MVD does not track the violations identified during inspections or the receipt of provider responses, which may include detailed action plans or other requested information demonstrating how providers will correct and prevent violations from reoccurring. For example, as previously reported (see page 13), 26 of 37 providers either did not provide a response or the response lacked sufficient information to address the violations and prevent them from occurring again, and MVD lacked procedures to track receipt or lack thereof and follow up with providers to obtain the documents.

During the audit, MVD developed a document to help track CDL inspections completed and violations identified, including whether additional information, such as revised action plans, were required to be submitted. However, MVD has not developed written policies and procedures for using this document, such as how often it will be monitored and staffs' roles and responsibilities for using the tracker and following up on outstanding items.

- **Taking enforcement action in response to inspection violations**—MVD staff reported using judgment and experience, rather than specific written guidance, to determine when to take enforcement action. As a result, MVD has an increased risk of issuing inappropriate or inconsistent enforcement actions. Although MVD inspectors recommended some examiners to take retraining, MVD supervisors required only a couple of examiners to take retraining, but did not require others to do so, and could not explain why. Further, when we asked MVD staff if the recommended retraining should have been completed, they reported they did not know. Moreover, MVD lacked policies and procedures requiring staff to expedite enforcement actions when necessary, such as when the severity of violations identified should result in immediately restricting examiners from conducting additional skills tests. For example, for 1 of the examiners we reviewed who was restricted from administering skills tests, it took MVD approximately 2 months to notify the examiner of the restriction and he conducted approximately 44 skills tests within this period.
- **Tracking and monitoring enforcement actions to ensure they are completed and followed**—MVD lacks a process for tracking and monitoring enforcement actions to ensure that CDL providers and examiners comply with and/or follow any required actions or prohibitions, such as completing retraining and/or refraining from conducting skills tests until completing retraining. As a result, MVD failed to monitor and follow through on most of the enforcement actions it recommended (see pages 13 and 14). Further, MVD staff reported that MVD does not follow up on whether submitted action plans have been implemented by providers in response to inspection violations until the provider's and/or examiner's next inspection. However, as discussed in Finding 1 (see pages 6 and 7), MVD did not always conduct CDL inspections timely, with 19 percent of provider inspections being overdue between 33 and 356 days and 56 percent of examiner coscore inspections being overdue between 63 and 640 days.

Recommendations

MVD should:

5. Ensure that CDL inspection violations identified are corrected and enforcement action issued is consistent and appropriate by developing and implementing written policies, procedures, and guidance, including defined staff roles and responsibilities for:
 - a. Tracking and monitoring that providers adequately respond to inspection reports and requests for information, including providing detailed action plans outlining how violations will be corrected and prevented from reoccurring.
 - b. Determining and issuing enforcement action to respond to identified CDL inspection violations, including guidance for taking appropriate, consistent, progressively stringent, and timely enforcement actions that address the violation(s), including requiring CDL examiners to complete retraining courses when an MVD inspector identifies a need for retraining.
 - c. Tracking and overseeing the enforcement actions taken to ensure that violations identified are being addressed appropriately, such as ensuring that CDL examiners have completed retraining courses

and have refrained from conducting skills tests until completing required retraining, or whether additional enforcement action is needed.

6. Develop and implement a written management review process for ensuring that CDL inspection violations identified are corrected and enforcement action issued is consistent and appropriate.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.



SUMMARY OF RECOMMENDATIONS

Auditor General makes 6 recommendations to MVD

MVD should:

1. Inspect all CDL providers and examiners at least once every 2 years using all inspection methods as required by federal regulations (see Finding 1, pages 6 through 11, for more information).
2. Assess the impact of its current number of inspectors on its inspection timeliness and take action as needed to ensure it has a sufficient number of inspectors to conduct inspections of all third-party CDL providers and examiners at least once every 2 years, such as utilizing MVD examiners to complete some coscore inspections of third-party CDL examiners (see Finding 1, pages 6 through 11, for more information).
3. Continue to consult with FMCSA on how it should comply with all federal regulations related to CDL inspections, such as conducting unannounced inspections of providers' and examiners' records, and covert and overt monitoring of examiners, and incorporate this guidance into its inspection procedures (see Finding 1, pages 6 through 11, for more information).
4. Develop or update and implement written policies and procedures for tracking and monitoring the timely completion of CDL provider and examiner inspections using all inspection methods required by federal regulations, including:
 - a. Identifying the total number of active contracted CDL providers and certified examiners.
 - b. Accurately recording inspection completion and due dates in the AAMVA scheduling system.
 - c. Using the AAMVA scheduling system to monitor and select CDL providers and examiners for inspections, including time frames for how often staff should review the system to identify when CDL skills tests will be administered to applicants, and how to prioritize providers and examiners for an inspection. As AAMVA makes changes to the AAMVA scheduling system, MVD should modify its policies and procedures to incorporate any new processes for using the system.
 - d. MVD management's review of the completion of CDL provider and examiner inspections at least once every 2 years, using all inspection methods required by federal regulations (see Finding 1, pages 6 through 11, for more information).
5. Ensure that CDL inspection violations identified are corrected and enforcement action issued is consistent and appropriate by developing and implementing written policies, procedures, and guidance, including defined staff roles and responsibilities for:
 - a. Tracking and monitoring that providers adequately respond to inspection reports and requests for information, including providing detailed action plans outlining how violations will be corrected and prevented from reoccurring.
 - b. Determining and issuing enforcement action to respond to identified CDL inspection violations, including guidance for taking appropriate, consistent, progressively stringent, and timely enforcement actions that address the violation(s), including requiring CDL examiners to complete retraining courses when an MVD inspector identifies a need for retraining.

- c. Tracking and overseeing the enforcement actions taken to ensure that violations identified are being addressed appropriately, such as ensuring that CDL examiners have completed retraining courses and have refrained from conducting skills tests until completing required retraining, or whether additional enforcement action is needed (see Finding 2, pages 12 through 18, for more information).
6. Develop and implement a written management review process for ensuring that CDL inspection violations identified are corrected and enforcement action issued is consistent and appropriate (see Finding 2, pages 12 through 18, for more information).



Scope and methodology

The Arizona Auditor General has conducted this performance audit of the Department pursuant to a December 17, 2020, resolution of the Joint Legislative Audit Committee. The audit was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq.

We used various methods to address the audit's objectives. These methods included reviewing State statutes and rules; federal laws and regulations; MVD policies, procedures, guidance documents, and standard CDL provider contract; the Arizona CDL examiner manual; NSAA-recommended practices; and the Department's website.⁴² We also interviewed MVD staff. In addition, we used the following specific methods to meet the audit objectives:

- To identify the population of active CDL providers and examiners as of December 2022, we performed a 3-way reconciliation and analysis of reports from 2 separate IT systems and an inspection-tracking spreadsheet MVD uses to track CDL providers, examiners, and inspections.
- To determine MVD's timeliness in inspecting CDL providers and examiners, we analyzed data from the AAMVA scheduling system for all 53 active CDL providers and 152 active examiners as of December 2022 by reviewing whether these CDL providers and examiners had been inspected at least once within the last 2 years or by the deadline allowed by the extended time frame granted by FMCSA, as applicable.⁴³
- To assess the potential impact of untimely inspections, we reviewed reports from the AAMVA scheduling system on the number of skills tests administered by those CDL providers and examiners that were overdue for an inspection from the time of being overdue through December 2022.
- To evaluate MVD's process for taking enforcement in response to identified violations, we reviewed a report from the AAMVA scheduling system as of December 2022 and identified 19 CDL providers and 18 CDL examiners that had an inspection in fiscal years 2021 and 2022.^{44,45} We then reviewed the inspection reports for all 19 providers and 18 examiners. Additionally, for those examiners who were recommended for retraining, we reviewed MVD documentation on attendance for the 40-hour examiner training class; skills test scoresheets provided by MVD staff; AAMVA scheduling system reports on skills tests conducted by the examiners since the date of the examiner's last inspection through March 2023; and a crash report for the CDL applicant who took a CDL skills test from 1 of these examiners and subsequently received their CDL. Further, we reviewed CDL provider websites.

⁴² NSAA, 2004 and AAMVA, 2005b.

⁴³ Joshi, 2021.

⁴⁴ While reviewing the validity of the data within the AAMVA scheduling system, we identified 1 examiner who was inaccurately listed as being employed by the Department instead of a CDL provider and had last received an inspection in our time frame of fiscal years 2021 and 2022. We judgmentally selected this examiner to include as part of the inspection reports for the 18 examiners we reviewed.

⁴⁵ The AAMVA scheduling system reports we used to identify CDL providers' or examiners' inspections conducted in fiscal years 2021 and 2022 listed the most recent inspection MVD conducted as of December 2022. As such, CDL providers or examiners that were inspected in fiscal years 2021 and 2022 for which MVD subsequently conducted an inspection in fiscal year 2023 were not included in our review. Our review included all 37 CDL providers and examiners with inspection dates listed in fiscal years 2021 and 2022 in the AAMVA scheduling system reports, which included 19 CDL providers and 18 CDL examiner coscore inspection reports.

- To obtain additional information for the Introduction, we reviewed MVD-provided data on driver licenses issued as of June 2023, the Arizona CDL manual, the AAMVA website, and information published by FMCSA on national commercial motor vehicle crash statistics.⁴⁶

Our work on internal controls, including information system controls, included reviewing MVD policies and procedures and, where applicable, testing MVD's compliance with these policies and procedures; assessing whether MVD remediates any deficiencies found in its internal control system; and assessing compliance with federal regulations. Additionally, we assessed controls for user access and data entry within the information systems MVD uses to track CDL providers, examiners, and inspections. We reported our conclusions on applicable internal controls in Findings 1 and 2.

We selected our audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We conducted this performance audit of MVD in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We express our appreciation to the Department Director and staff for their cooperation and assistance throughout the audit.

⁴⁶ AAMVA, 2005a and FMCSA, 2022.

DEPARTMENT RESPONSE

August 17, 2023

Lindsey Perry, CPA, CFE
Auditor General
2910 N 44.th Street, Suite 410
Phoenix, Arizona 85018-7571

Subject: Motor Vehicle Division's (MVD) oversight of Commercial Driver License Examination Providers

Dear Ms. Perry:

Attached is the Arizona Department of Transportation's response to the performance audit of the Motor Vehicle Division's oversight of commercial driver license examination providers and examiners.

We appreciate being given the opportunity to respond.

If you have any questions, please do not hesitate to contact my office.

Sincerely,



Jennifer Toth
Director

Finding 1: MVD has not inspected some CDL providers and examiners at least once every 2 years or used some inspection methods as required by federal regulations, putting public safety at risk

Recommendation 1: MVD should inspect all CDL providers and examiners at least once every 2 years using all inspection methods as required by federal regulations.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: During COVID, an FMCSA waiver was in place that extended the timeframes to perform these inspections, in recognition that many tests were not occurring and that some states were closing completely. When the waiver ended, the department was out of compliance. The department is accelerating its return to full compliance by utilizing additional MVD resources. The department has already reduced the number of examiners not inspected by 75% since the Auditor General conducted its review.

Recommendation 2: MVD should assess the impact of its current number of inspectors on its inspection timeliness and take action as needed to ensure it has a sufficient number of inspectors to conduct inspections of all third-party CDL providers and examiners at least once every 2 years, such as utilizing MVD examiners to complete some coscore inspections of third-party CDL examiners.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The department has reviewed staffing needs and is training its own CDL examiners to conduct third party inspections to increase capacity. A pilot has already begun and formal procedures will be documented through the pilot phase.

Recommendation 3: MVD should continue to consult with FMCSA on how it should comply with all federal regulations related to CDL inspections, such as conducting unannounced inspections of providers' and examiners' records, and covert and overt monitoring of examiners, and incorporate this guidance into its inspection procedures.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The department has requested clarification from FMCSA regarding covert and overt inspections and is currently awaiting a response. The department will ensure that follow-ups are conducted as needed until the issues are fully clarified. FMCSA conducts an annual program review and has not communicated our current practice as deficient in this regard.

Recommendation 4: MVD should develop or update and implement written policies and procedures for tracking and monitoring the timely completion of CDL provider and examiner inspections using all inspection methods required by federal regulations, including:

Recommendation 4a: Identifying the total number of active contracted CDL providers and certified examiners.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will use CSTIMS as the system of record for tracking and will use its functionality to implement this recommendation. To the degree additional tracking tools are needed, they will be in sync with and reconciled to CSTIMS.

Recommendation 4b: Accurately recording inspection completion and due dates in the AAMVA scheduling system.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will use CSTIMS as the system of record for tracking and will use its functionality to implement this recommendation. To the degree additional tracking tools are needed, they will be in sync with and reconciled to CSTIMS.

Recommendation 4c: Using the AAMVA scheduling system to monitor and select CDL providers and examiners for inspections, including time frames for how often staff should review the system to identify when CDL skills tests will be administered to applicants, and how to prioritize providers and examiners for an inspection. As AAMVA makes changes to the AAMVA scheduling system, MVD should modify its policies and procedures to incorporate any new processes for using the system.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The department is reviewing all tools available in the CSTIMS program operated by AAMVA and the resources it offers that may aid our view of tracking examiners coming up for inspection, along with those completed and not inspected. In addition, any in-house tracking tools will be modified as noted above. Changes to procedures will be formally documented.

Recommendation 4d: MVD management's review of the completion of CDL provider and examiner inspections at least once every 2 years, using all inspection methods required by federal regulations.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Using the tools we mentioned above, we will ensure management has a better line of sight to ensure all inspections have been completed as required. These inspections are being incorporated into monthly business reviews.

Finding 2: MVD not holding some CDL providers and examiners accountable for addressing inspection violations may jeopardize public safety

Recommendation 5: MVD should ensure that CDL inspection violations identified are corrected and enforcement action issued is consistent and appropriate by developing and implementing written policies, procedures, and guidance, including defined staff roles and responsibilities for:

Recommendation 5a: Tracking and monitoring that providers adequately respond to inspection reports and requests for information, including providing detailed action plans outlining how violations will be corrected and prevented from reoccurring.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The department will utilize new and existing tools to ensure the effective monitoring of action plans, as well as appropriate follow-up on any actions for completion and use the data for future training/education. Procedures will be documented in conjunction with our processes.

Recommendation 5b: Determining and issuing enforcement action to respond to identified CDL inspection violations, including guidance for taking appropriate, consistent, progressively stringent, and timely enforcement actions that address the violation(s), including requiring CDL examiners to complete retraining courses when an MVD inspector identifies a need for retraining.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The department is currently developing the relevant procedures and will create formal documentation of the standard enforcement actions and tracking.

Recommendation 5c: Tracking and overseeing the enforcement actions taken to ensure that violations identified are being addressed appropriately, such as ensuring that CDL examiners have completed retraining courses and have refrained from conducting skills tests until completing required retraining, or whether additional enforcement action is needed.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Using the tools and processes mentioned in 5a and 5b, the department will implement effective tracking and oversight of enforcement actions.

Recommendation 6: MVD should develop and implement a written management review process for ensuring that CDL inspection violations identified are corrected and enforcement action issued is consistent and appropriate.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Items identified will be part of regular business reviews and dashboards for leadership and existing escalation processes for those tools will be used as needed. Formal documentation will be created.

