

at <http://www.contractdirectory.gov> is provided.

Conforming changes are proposed at FAR 9.405–1 to delete the words “optional use”; and at FAR 52.208–9 to correct the cross-reference to the clause prescription.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any additional requirements on small businesses, but clarifies existing regulations, in FAR part 8, on the use of existing mandatory and non-mandatory sources.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2009–024), in correspondence.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 8, 9, and 52

Government procurement.

Dated: June 8, 2011.

Millisa Gary,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 8, 9, and 52 as set forth below:

1. The authority citation for 48 CFR parts 8, 9, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Revise section 8.000 to read as follows:

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.000 Scope of part.

This part deals with prioritizing sources acquisition of supplies and services for use by the Government.

3. Amend section 8.002 by—
- a. Revising the section heading;
 - b. Removing from the introductory text of paragraph (a) “sources” and adding “mandatory Government sources” in its place;
 - c. Removing paragraphs (a)(1)(vi), (a)(1)(vii), and (a)(1)(viii); and
 - d. Revising paragraph (a)(2).

The revised text reads as follows:

8.002 Priorities for use of mandatory Government sources.

(a) * * *

(2) *Services.* Services which are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7).

* * * * *

8.003 Use of other mandatory sources.

4. Amend section 8.003 by revising the section heading as set forth above.
5. Redesignate section 8.004 as section 8.005 and add a new section 8.004 to read as follows:

8.004 Use of other sources.

Where an agency is unable to satisfy requirements for supplies and services from the mandatory sources listed in 8.002 and 8.003, agencies are encouraged to consider satisfying requirements from or through the non-mandatory sources listed in paragraph (a) of this section before considering the non-mandatory sources listed in paragraph (b) of this section.

(a)(1) *Supplies.* Federal Supply Schedules, Governmentwide acquisition contracts, multi-agency contracts, and any other procurement instruments

intended for use by multiple agencies, including blanket purchase agreements (BPAs) under Federal Supply Schedule contracts (*e.g.*, Federal Strategic Sourcing Initiative (FSSI) agreements accessible at <http://www.gsa.gov/fssi> (see also 5.601)).

(2) *Services.* In addition to the sources listed in paragraph (a)(1) of this section, agencies are encouraged to consider Federal Prison Industries, Inc. (see subpart 8.6).

(b) Commercial sources (including educational and non-profit institutions) in the open market.

8.402 [Amended]

6. Amend section 8.402 by removing from paragraph (a) “(see 8.002)” and adding “(see 8.004)” in its place.

PART 9—CONTRACTOR QUALIFICATIONS

9.405–1 [Amended]

7. Amend section 9.405–1 by removing from paragraph (b)(2) “optional use”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.208–9 [Amended]

8. Amend section 52.208–9 by removing from the introductory paragraph “8.004” and adding “8.005” in its place.

[FR Doc. 2011–14650 Filed 6–13–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

[Docket No. FMCSA–1997–2210]

RIN 2126–AB39

Medical Certification Requirements as Part of the Commercial Driver’s License (CDL); Extension of Certificate Retention Requirements

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FMCSA proposes to keep in effect until January 30, 2014, the requirement that interstate drivers subject to the commercial driver’s license (CDL) regulations and the Federal physical qualification requirements must retain a paper copy of the medical examiner’s certificate. Interstate motor carriers would also be

required to retain a copy of the medical certificate in the driver qualification files. This action is being taken to ensure the medical qualification of CDL holders until all States are able to post the medical self-certification and medical examiner's certificate data on the Commercial Driver's License Information System (CDLIS) driver record. This proposed rule would not, however, extend the mandatory dates for States to comply with the requirement to collect and to post to the CDLIS driver record data from a CDL holder's medical self-certification and medical examiner's certificate.

DATES: Comments must be received on or before June 29, 2011.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-1997-2210 using any one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility, (M-30), U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room 12-140, Washington, DC 20590-0001.

- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. All submissions must include the Agency name and docket number for this notice. See the "Public Participation" heading below for instructions on submitting comments and additional information.

Note that all comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>. Please see the "Privacy Act" heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to Room W12-140 on the ground floor of the DOT Headquarters Building at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act System of Records Notice for the DOT Federal

Docket Management System published in the **Federal Register** on January 17, 2008, (73 FR 3316) or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Public Participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site. Comments received after the comment closing date will be included in the docket, and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, Senior Transportation Specialist, Office of Safety Programs, Commercial Driver's License Division (MC-ESL), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone (202) 366-5014.

SUPPLEMENTARY INFORMATION:

Legal Basis

Medical Certification Requirements as Part of the CDL

The legal basis of the final rule titled "Medical Certification Requirements as Part of the Commercial Driver's License," issued on December 1, 2008, (73 FR 73096-73097) is also applicable to this rule.

Background

On December 1, 2008, FMCSA published a final rule adopting regulations to implement section 215 of the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1767 (Dec. 9, 1999)) (MCSIA). The 2008 final rule requires any CDL holder subject to the physical qualification requirements of the Federal Motor Carrier Safety Regulations (FMCSRs) to provide a current original or copy of his or her medical examiner's certificate to the issuing State Driver Licensing Agency (SDLA). The Agency also requires the SDLA to post in the CDLIS driver record the self-certification that CDL holders are required to make regarding applicability of the Federal physical qualification requirements and, for drivers subject to those requirements, the medical certification information specified in the regulations. Other conforming requirements for both SDLAs and employers also were implemented (73 FR 73096-73128). These requirements, for the most part, have a compliance date of January 30, 2012. On May 21, 2010, the Agency published several technical amendments to the 2008 final rule to make certain corrections and to address

certain petitions for reconsideration of the same final rule (75 FR 28499-28502).

Several SDLAs have recently advised the Agency that they may not have the capability by January 30, 2012, to receive the required medical certification and medical examiner's certificate information provided by a non-excepted, interstate CDL holder, and then manually post it to the CDLIS driver record. Inability of an SDLA to receive the required material would render both the CDL holder and his or her employer unable to demonstrate or verify, respectively, that the driver is medically certified in compliance with the FMCSRs.

Discussion of the Proposed Rule

The FMCSA proposes to maintain in effect until January 30, 2014, the requirement for an interstate CDL holder subject to the Federal physical qualification standards to carry a paper copy of the driver's medical examiner's certificate. Until January 30, 2014, a CDL holder would continue to carry on his or her person the medical examiner's certificate specified at § 391.43(h), or a copy, as valid proof of medical certification. Also, interstate motor carriers that employ CDL holders would need to continue to obtain and file a copy of the CDL holder's medical examiner's certificate in its driver qualification files, as specified at § 391.51(b)(7), if the motor carrier is unable to obtain that information from the SDLA issuing the CDL to the driver. This action is being proposed to ensure the medical qualification of CDL holders until all States are able to post the medical self-certification and medical examiner's certificate data on the CDLIS driver record.

There is no change in the compliance dates for SDLAs established in the 2008 final rule. SDLAs are expected to meet the January 30, 2012, date to start collecting from CDL applicants and posting and retaining this data on the CDLIS driver record and, in addition, to collect and post the same data from all existing CDL holders by the January 30, 2014, compliance date. The Agency believes that extending the requirement to retain the paper copy of the medical examiner's certificate by both the interstate CDL holder and the motor carriers for 2 years will provide sufficient time for them to be sure that all SDLAs will be obtaining the medical status and medical examiner's certificate information and posting it on the driver's CDLIS driver record.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this proposed action is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563, 76 FR 3821 (Jan. 21, 2011), or within the meaning of the Department of Transportation regulatory policies and procedures. Therefore, the Agency was not required to submit this regulatory action to the Office of Management and Budget (OMB). The changes proposed in this NPRM would have minimal costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA has evaluated the effects of this rule on small entities. The rule extends until January 30, 2014, the existing requirement for interstate CDL holders subject to Federal physical qualifications requirements and their employers to retain a copy of the medical examiner's certificate. Because extending the current requirement would not materially impact small entities more than the current regulations, FMCSA certifies that this proposed action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$141.3 million (which is the value in 2011 of \$100 million after adjusting for inflation) or more in any 1 year. The FMCSA has determined that the impact of this proposed rulemaking will not reach this threshold.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FMCSA analyzed this action under Executive Order 13045,

Protection of Children From Environmental Health Risks and Safety Risks. We determined that this proposed rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rulemaking does not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

The FMCSA analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132. Although the 2008 final rule had Federalism implications, FMCSA determined that it did not create a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This proposed rulemaking does not change that determination in any way.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that no new information collection requirements are associated with the proposed amendments in this NPRM.

National Environmental Policy Act

The FMCSA analyzed this proposed rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, published March 1, 2004, (69 FR 9680) that this proposed action does not have any significant impact on the environment. In addition, the proposed actions in this NPRM are categorically excluded from further analysis and documentation as per paragraph 6.b of Appendix 2 of FMCSA's Order 5610.1. The FMCSA also analyzed this proposed rule under

the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. This action is exempt from the CAA's general conformity requirement since the action results in no increase in emissions.

Executive Order 13211 (Energy Effects)

The FMCSA analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We determined that it is not a "significant energy action" under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 391

Motor carriers, Reporting and recordkeeping requirements, Safety.

In consideration of the foregoing, FMCSA proposes to amend title 49, Code of Federal Regulations, Chapter III as follows:

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 322, 504, 508, 31133, 31136, and 31502; sec. 4007(b) of Pub. L. 102–240, 105 Stat. 2152; sec. 114 of Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215 of Pub. L. 106–159, 113 Stat. 1767; and 49 CFR 1.73.

2. Amend § 391.23 by revising (m)(2) introductory text, (m)(2)(i) to read as follows:

§ 391.23 Investigation and inquiries.

* * * * *

(m) * * *

(2) *Exception.* For drivers required to have a commercial driver's license under part 383 of this chapter:

(i) Beginning January 30, 2014, using the CDLIS motor vehicle record obtained from the current licensing State, the motor carrier must verify and document in the driver qualification file the following information before allowing the driver to operate a CMV:

* * * * *

(ii) Until January 30, 2014, if a driver operating in non-excepted, interstate commerce has no medical certification status information on the CDLIS MVR obtained from the current State driver licensing agency, the employing motor carrier may accept a medical examiner's certificate issued to that driver, and

place a copy of it in the driver qualification file before allowing the driver to operate a CMV in interstate commerce.

3. Revise § 391.41(a)(2)(i) to read as follows:

§ 391.41 Physical qualifications for drivers.

- (a) * * *
- (2) * * *

(i) Beginning January 30, 2014, a driver required to have a commercial driver's license under part 383 of this chapter, and who submitted a current medical examiner's certificate to the State in accordance with § 383.71(h) of this chapter documenting that he or she meets the physical qualification requirements of this part, no longer needs to carry on his or her person the medical examiner's certificate specified

at § 391.43(h), or a copy for more than 15 days after the date it was issued as valid proof of medical certification.

* * * * *

Issued on: June 8, 2011.

Anne S. Ferro,
Administrator, Federal Motor, Carrier Safety Administration.

[FR Doc. 2011-14653 Filed 6-13-11; 8:45 am]

BILLING CODE 4910-EX-P