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Medical Examiner's Certification Integration; Final Rule

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Parts 383, 384 and 391****[Docket No. FMCSA–2012–0178]****RIN 2126–AB40****Medical Examiner's Certification Integration****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Final rule.

SUMMARY: FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to require certified medical examiners (MEs) performing physical examinations of commercial motor vehicle (CMV) drivers to use a newly developed Medical Examination Report (MER) Form, MCSA–5875, in place of the current MER Form and to use Form MCSA–5876 for the Medical Examiner's Certificate (MEC); and report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The reporting of results includes all CMV drivers who are required to be medically certified to operate in interstate commerce, not only those who hold or apply for commercial learner's permits (CLP) or commercial driver's licenses (CDL), and results of any examinations performed in accordance with the FMCSRs with any applicable State variances (which will be valid for intrastate operations only). For holders of CLP/CDLs (interstate and intrastate), FMCSA will electronically transmit driver identification, examination results, and restriction information from examinations performed from the National Registry to the State Driver's Licensing Agencies (SDLAs). The Agency will also transmit medical variance information for all CMV drivers electronically to the SDLAs.

DATES: Effective on June 22, 2015. See the amendments to 49 CFR parts 383, 384 and 391 for compliance dates.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver, & Vehicle Safety Standards, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 366–4001 or via email at fmcsamedical@dot.gov. Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays. If you have questions

on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

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I. Rulemaking Documents**A. Availability of Rulemaking Documents**

For access to docket FMCSA–2012–0178 to read background documents and comments received, go to <http://www.regulations.gov> at any time, or to U.S. Department of Transportation,

Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

II. Executive Summary**A. Purpose and Summary of the Major Provisions**

The purpose of this final rule is to facilitate the electronic transmission of MEC information from FMCSA's National Registry to the SDLAs. This transmission will provide administrative cost savings to motor carriers, drivers, MEs, and SDLAs. In addition, it will reduce, to the greatest extent possible, the potential for the submission of falsified MECs to the States, which are required to post MEC information to CLP/CDL holders' records accessible via CDLIS. By ensuring that drivers are medically qualified, FMCSA will decrease the risk of CMV crashes, attributable in whole or in part, to drivers with medical conditions that adversely affect their ability to operate a CMV safely on the Nation's highways.

The final rule requires certified MEs performing physical examinations of CMV drivers to use a newly developed MER Form, MCSA–5875, in place of the current MER Form and to use the Form MCSA–5876 for the MEC. In addition, MEs are required to report results of each CMV drivers' physical examination, including the results of examinations where the driver was found not to be qualified, to FMCSA by midnight local time of the next calendar day following the examination. This includes all CMV drivers (CDL/CLP and Non-CDL/CLP) who are required to be medically certified to operate in interstate commerce and allows, but does not require, MEs to transmit any information about examinations performed in accordance with the FMCSRs with any applicable State variances, which will be valid for intrastate operations only. Examination results will be reported by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via the ME's individual password-protected National Registry web account.

For applicants/holders of CLP/CDLs (interstate and intrastate), FMCSA will electronically transmit from the National Registry system to the SDLAs driver identification, examination results, and restriction information for examinations performed in accordance with the FMCSRs (49 CFR 391.41–391.49), as well as information about any examinations reported by the MEs that are performed in accordance with applicable State variances. This includes examination results that have been voided by FMCSA because the Agency finds that an ME has certified a driver who does not meet the interstate physical certification standards.

The Agency will also transmit medical variance information¹ for all CMV drivers electronically to the SDLAs. Transmission of this information will allow authorized State and Federal enforcement officials to view the most current and accurate information regarding the medical status of the CMV driver, all information on the MEC, any medical variance information (if applicable), and the issued and expiration date.

B. Benefits and Costs

The estimated cost of the final rule is not expected to exceed the \$100 million annual threshold for economic significance. The modifications to the National Registry system and Commercial Driver’s License Information System (CDLIS) that will allow the Agency to electronically transmit driver identification, examination results, and medical variance information from the National Registry system to the SDLAs, have been estimated to be a one-time rounded cost of \$12,000,000.

SUMMARY OF QUANTIFIED COSTS

SDLA	\$10,000,000
AAMVA	1,000,000
FMCSA	1,000,000
Total Costs (rounded) ...	12,000,000

The implementation of this rule will result in changes to the annual paperwork burden hours and costs for the Medical Qualification Requirements and the Commercial Driver Licensing and Testing Standards information collections (ICs). As a result, the motor carriers, drivers, MEs, and SDLAs affected will benefit from a decrease in annual burden hours and economic

¹ When medical variance information is referenced in this document it means exemptions, skills performance evaluation certificates and grandfathered exemptions issued by FMCSA.

expenditures. The estimated cost savings are \$10.16 million annually.

The potential estimated benefits are detailed in the table below. The revised Office of Management and Budget (OMB) control numbers 2126–0006 and 2126–0011 Supporting Statements detail all revisions associated with the reduced annual paperwork burden hours.

SUMMARY OF QUANTIFIED BENEFITS
[in millions of dollars]

Motor carriers no longer verify ME National Registry number	\$4.78
MEs no longer handwrite MECs for CLP/CDL applicants/holders	2.87
CLP/CDL applicants/holders no longer provide MEC to SDLA	1.05
SDLAs no longer manually record MEC information	1.46
Total Benefits	10.16

III. Abbreviations

- AAMVA American Association of Motor Vehicle Administrators
- AAMVAnet American Association of Motor Vehicle Administrators Network
- Advocates Advocates for Highway and Auto Safety
- ATA American Trucking Associations
- CAA Clean Air Act
- CE Categorical Exclusion
- CDL Commercial Driver’s License
- CDLIS Commercial Driver’s License Information System
- CLP Commercial Learner’s Permit
- CMV Commercial Motor Vehicle
- DOT U.S. Department of Transportation
- DQ Driver Qualification
- FMCSA Federal Motor Carrier Safety Administration
- FMCSRs Federal Motor Carrier Safety Regulations
- IC Information Collection
- ICC Interstate Commerce Commission
- MAP–21 Moving Ahead for Progress in the 21st Century Act
- ME Certified Medical Examiner
- MEC Medical Examiner’s Certificate
- MER Medical Examination Report
- MVR Motor Vehicle Record
- NPRM Notice of Proposed Rulemaking
- OMB Office of Management and Budget
- PIA Privacy Impact Assessment
- PII Personally Identifiable Information
- PRA Paper Reduction Act
- RFA Regulatory Flexibility Act
- SAFETEA–LU Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
- SDLA State Driver Licensing Agencies
- SPE Skill Performance Evaluation

IV. Legal Basis for the Rulemaking

The purpose of this final rule is to modify the requirements adopted in two earlier final rules issued by FMCSA, 73 FR 73096 (Dec. 1, 2008) and 77 FR 24104 (April 20, 2012), so that the information from the MEC transmitted to FMCSA after the examination by MEs for drivers required to have a CDL is promptly and accurately transmitted to the SDLAs for entry into the appropriate driver record. In view of this purpose, the legal bases of the two previous final rules also serve as the legal basis for this final rule. The primary legal basis for the 2008 final rule, Medical Certification Requirements as Part of the Commercial Driver’s License, is section 215 of Motor Carrier Safety Improvement Act [Pub. L. 106–159, 113 Stat. 1767 (Dec. 9, 1999)] (set out as a note to 49 U.S.C. 31305). The primary legal basis for the 2012 final rule, National Registry of Certified Medical Examiners (National Registry), is 49 U.S.C. 31149, enacted by section 4116(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law 109–59, 119 Stat. 1726 (Aug. 10, 2005) (SAFETEA–LU). Detailed discussions of the legal basis for the 2008 and 2012 final rules appear in their preambles, at 73 FR 73096–73097 and 77 FR 24105–24106, respectively.

A. Authority Over Drivers Affected

1. Drivers Required To Obtain an MEC

FMCSA is required by statute to establish standards for the physical qualifications of drivers who operate CMVs in interstate commerce [49 U.S.C. 31136(a)(3) and 31502(b)]. FMCSA has fulfilled the statutory mandate of 49 U.S.C. 31136(a)(3) by establishing physical qualification standards for all drivers covered by these provisions [49 CFR 391.11(b)(4)].² Such drivers must obtain from an ME a certification stating that the driver is physically qualified [49 CFR 391.41(a), 391.43(g) and (h)]. FMCSA is also required by statute to ensure that the operation of a CMV does not have a deleterious effect on the physical condition of the drivers [49 U.S.C. 31136(a)(4)].

Sec. 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, 126 Stat. 405, July 6, 2012) added an additional requirement to ensure that “an operator of a CMV is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a CMV in violation of a regulation

² There are a few limited exceptions of drivers in 49 CFR 390.3(f) and 391.2.

promulgated under this section, or chapter 51 or chapter 313 of this title” [49 U.S.C. 31136(a)(5)]. See the discussion below. FMCSA is also required to consider, to the extent practicable and consistent with the purposes of the statute, costs and benefits of the rule. 49 U.S.C. 31136(c)(2)(A).

2. Drivers Required To Obtain a CDL

The authority for FMCSA to require an operator of a CMV to obtain a CDL rests on the authority found in 49 U.S.C. 31302.

B. Authority To Regulate State CDL Programs

FMCSA, in accordance with 49 U.S.C. 31311 and 31314, has authority to prescribe procedures and requirements for the States to observe in order to issue CDLs [see, generally, 49 CFR part 384]. In particular, under section 31314, in order to avoid loss of funds apportioned from the Highway Trust Fund, each State shall comply with the requirement that the State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by FMCSA under section 31305(a) of Title 49 U.S.C. 49 U.S.C. 31311(a)(1). See also 49 CFR 384.201.

C. Authority To Require Reporting by MEs

FMCSA has authority under 49 U.S.C. 31133(a)(8) and 31149(c)(1)(E) to require MEs on the National Registry to obtain information from CMV drivers regarding their physical health, to record and retain the results of the physical examinations of CMV drivers and to require frequent reporting of the information contained on all of the MECs they issue. Section 31133(a)(8) gives the Agency broad administrative powers (specifically “to prescribe recordkeeping and reporting requirements”) to assist in ensuring motor carrier safety and driver health. [Sen. Report No. 98–424 at 9 (May 2, 1984)]. Section 31149(c)(1)(E) authorizes a requirement for electronic reporting of certain specific information by MEs, including applicant names and numerical identifiers as determined by the FMCSA Administrator. Section 31149(c)(1)(E) sets minimum monthly reporting requirements for MEs and does not preclude the exercise by the Agency of its broad authority under section 31133(a)(8) to require more frequent and more inclusive reports. In addition to the general rulemaking authority in 49 U.S.C. 31136(a), the Secretary of Transportation is

specifically authorized by section 31149(e) to “issue such regulations as may be necessary to carry out this section.”

Authority to implement these various statutory provisions has been delegated to the Administrator of FMCSA [49 CFR 1.87(f)].

V. Background

On May 10, 2013, FMCSA published the Medical Examiner’s Certification Integration notice of proposed rulemaking (NPRM) (78 FR 27343). The public comment period for the NPRM closed on July 9, 2013. This final rule, as stated in the Legal Basis section, is a follow-on rule to both the Medical Certification Requirements as Part of the CDL rule (Med-Cert) final rule published on December 1, 2008 (73 FR 73096) and the National Registry of Certified Medical Examiners (National Registry) final rule published on April 20, 2012 (77 FR 2410). It is the third rule of an initiative to improve the driver qualification and medical examiner’s certification process.

A. Medical Certification Requirements as Part of the CDL

FMCSA’s 2008 Med-Cert final rule, [73 FR 73096 (Dec. 1, 2008)] adopted a number of regulatory provisions designed to incorporate information from the MEC into CDLIS. Subsequent actions of the Agency modified some of the provisions adopted in the 2008 final rule [see Med-Cert; Technical, Organizational, and Conforming Amendments, 75 FR 28499 (May 21, 2010)]. Most of the requirements established by these actions took effect on January 30, 2012. But some requirements affecting CDL holders and their employers did not take effect until January 30, 2015.

In addition, FMCSA established new uniform requirements for CLPs in the final rule published May 9, 2011, Commercial Driver’s License Testing and Commercial Learner’s Permit Standards [76 FR 26854]. As a result, the medical certification requirements of the 2008 final rule will apply to applicants and holders of CLPs beginning on July 8, 2015 [78 FR 17875, 17882 (Mar. 25, 2013), amending 49 CFR 384.301(f)]. As modified by these actions, the essential elements of these CLP/CDL medical certification provisions for each of the affected groups are summarized below:

1. SDLAs

The Med-Cert rule mainly requires the States to modify their CDL procedures to: (1) Record a CLP/CDL applicant’s/holder’s self-certification regarding type

of driving (e.g., interstate (non-excepted or excepted) and intrastate (non-excepted or excepted) on the CDLIS driver record); (2) require submission of the original or copy of the MEC from a driver operating in non-excepted, interstate commerce who is required by 49 CFR part 391 to be medically certified; (3) post the required information from the certificate or a copy onto the CDLIS driver record within 10 calendar days; (4) update the medical certification status of the CDLIS driver record to show the driver as “not-certified” if the certification expires; and (5) downgrade the CLP/CDL within 60 days of the expiration of the driver’s MEC. There are also requirements for posting certain information about any medical variances issued to the driver on the CDLIS driver record.

If the driver certifies that he or she expects to drive in interstate commerce and is not driving exclusively for one of the industries excepted from the requirements of 49 CFR part 391, the Med-Cert rule requires the State to post the driver’s information, within 10 calendar days on the CDLIS driver record. In addition to the recordkeeping requirements, the SDLA must make the driver’s medical certification status information electronically accessible to authorized State and Federal enforcement officials and to drivers and employers via CDLIS motor vehicle records (MVRs).

Today’s final rule provides a cost-effective tool to support the States in implementing the Med-Cert rule and reduce to the greatest extent possible the need for State personnel to spend time manually entering information from paper copies of the medical certificates. The rule also helps ensure that the medical certificates being uploaded are valid.

2. Motor Carriers and Employers

Motor carriers who employ a CDL holder subject to the physical qualifications requirements under 49 CFR part 391 must place the driver’s current CDLIS MVR documenting the driver’s medical certification status in the driver’s qualification (DQ) file before allowing the driver to operate a CMV. The MEC that the driver provided to the SDLA may be used for this purpose for up to 15 days from the date the certificate was issued by the ME. The CDLIS MVR will be used to verify the driver has the necessary medical certification and the results placed in the DQ file.

3. Drivers.

All interstate CDL holders subject to the physical qualifications standards of

49 CFR part 391 must meet the following requirements:

- All drivers applying for an initial, renewal, upgrade or transfer of a CDL must provide the MEC to the SDLA, and update that information whenever a new certificate is issued.

- All existing CDL holders who do not have a renewal, upgrade or transfer issuance must still provide the MEC to the SDLA. They must update that information with the SDLA whenever a new certificate is issued.

- Beginning on January 30, 2015, these drivers no longer have to use the MEC as proof of their medical certification to enforcement personnel or employers, except for the first 15 days after issuance.

- Beginning on January 30, 2015, these drivers are no longer required to carry the actual MEC after the first 15 days after issuance, but must continue to carry any Skills Performance Evaluation (SPE) certificate or medical exemption document while on duty.

- Beginning on July 8, 2015, the above requirements will also apply to CLP holders.

Non-CDL/CLP holders subject to the physical qualifications standards of 49 CFR part 391 will continue to be required to carry the original or a copy of the MEC and any SPE certificate or medical exemption document while on duty.

B. National Registry of Certified MEs

In 2012, FMCSA issued a final rule establishing the National Registry [77 FR 24104 (Apr. 20, 2012)]. This rule established training and testing requirements for medical professionals who conduct the medical certification examinations of interstate CMV drivers. The compliance date for the National Registry final rule was May 21, 2014. Therefore, as to medical certifications issued on or after that date, the Agency considers valid only those MECs that were issued by MEs listed on the National Registry on the date of issuance. MECs that were issued prior to the May 21, 2014 compliance date, however, are considered valid until the MECs expiration date provided by the ME.

The MEs who conduct medical examinations of CMV drivers must retain copies of the MER Forms of all drivers they examine and certify. The MER Form lists the specific results of the various medical tests and assessments used to determine if a driver meets the physical qualification standards set forth in 49 CFR part 391, subpart E.

One of the administrative requirements for being listed on the

National Registry is for the ME to submit a CMV Driver Medical Examination Results Form, MCSA–5850, to FMCSA for each physical examination conducted on both CLP/CDL and non-CDL holders. MEs are required to submit this information monthly. The CMV Driver Medical Examination Results Form, MCSA–5850, has undergone minor editorial changes to be more user friendly and includes most of the information on the MEC.

C. MER

The current version of the MER Form and the instructions and requirements for its use have evolved over a number of years. In 2000, FMCSA issued a final rule adopting significant revisions to the instructions and MER Form, much as they appear today in 49 CFR 391.43(f). The purpose of the revisions was to organize the form to: “(1) Gain simplicity and efficiency; (2) reflect current medical terminology and examination components; and (3) be a self-contained document. . . .” [Physical Qualification of Drivers; Medical Examination; Certificate, 65 FR 59363 (Oct. 5, 2000)]. The MER Form also included a number of advisory criteria providing Agency guidelines to assist MEs in assessing a driver’s physical qualifications. FMCSA noted that “These guidelines are strictly advisory and were established after consultation with physicians, States and industry representatives.” (65 FR 59364).

Since the 2000 revisions, the MER Form and the instructions have been revised only to reflect changes in the advisory guidelines relating to hypertension and standards for the use of Schedule I drugs [Motor Carrier Safety Regulations; Miscellaneous Technical Amendments, 68 FR 56199 (Sep. 30, 2003) and Harmonizing Schedule I Drug Requirements, 77 FR 4479 (Jan. 30, 2012) and 77 FR 10391 (Feb. 22, 2012)].

VI. Discussion of Comments Received on the Proposed Rule

A. Overview of Comments

In response to the May 2013 NPRM, FMCSA received 67 comments. The majority of the commenters were State agencies (from Alabama, California, Colorado, Delaware, Georgia, Illinois, Kentucky, Maryland, Missouri, Montana, Nebraska, New York, Ohio, Oregon, Utah, Virginia, and Wisconsin) and individuals, many of whom identified themselves as healthcare professionals. Among other commenters were the following: Five healthcare

provider professional associations including the American Academy of Physician Assistants (AAPA) and the American College of Occupational and Environmental Medicine (ACOEM); four trucking/industry associations including the American Association of Motor Vehicle Administrators (AAMVA) and the American Trucking Associations, Inc. (ATA); seven motor carriers including Landstar Transportation Logistics, Inc.; Schneider National, Inc.; the County of Los Angeles, CA; Concentra Health Services jointly with U.S. HealthWorks Medical Group; and Advocates for Highway and Auto Safety (Advocates).

The first area of comment involved the proposal for electronic transmission of CMV drivers’ MEC information to the SDLAs, and related issues. The second involved the proposed revisions and handling of the MER Form, MCSA–5875 and, to a lesser extent, the minor changes to the MEC, Form MCSA–5876. A third area of comment involved provisions that would invalidate a driver’s current MEC when the driver fails a new physical examination. Lastly, a number of commenters raised issues that were beyond the scope of the proposals in the NPRM. These comments will be briefly summarized with an explanation as to why the issues raised are not within the scope of this proceeding.

Although no commenters explicitly expressed support for the proposed rule in its entirety, 17 were in support of various provisions of the rule. Five commenters explicitly opposed the proposed rule. Twenty-nine commenters provided recommendations, voiced concerns, or were opposed to specific parts of the proposed rule, such as identification of the system that will be used for the electronic transmission of MEC data to the SDLAs, transmission of data for all CMV drivers not just CLP/CDL applicants/holders, transmission of data for those drivers operating in intrastate commerce, daily reporting requirements for MEs, and new form requirements. Nine commenters expressed serious concerns over specific requirements that they believe would be detrimental to stakeholders, such as increased costs, creating potential shortages of certified MEs, prohibiting drivers from carrying their MEC as a means of proving their medical qualification, and the implementation date for SDLAs. Seven others commented on issues that are outside the scope of this rulemaking.

The following sections provide details regarding specific issues raised by the commenters.

B. Electronic Transmission and Access to MEC Information

1. System To Be Used for Data Transfer

FMCSA proposed to electronically transmit driver identification, examination results, and restriction information from the National Registry system to the SDLAs for CLP/CDL applicants/holders. Many commenters were concerned that the system FMCSA plans to use to transfer the MEC information electronically to the SDLAs was not identified. AAMVA, many States, and other commenters suggested FMCSA consider using the existing CDLIS platform because it is a proven, secure system that on a daily basis successfully moves large amounts of data between States. It is their opinion that it would be easier to create a new message type in CDLIS that allows the MEC information to be transmitted than it would be to develop a new system, and would not require manual entry of data. They recommended that all fields have defined formats/standards and, if standards already exist in CDLIS and are included in the CDLIS MVR that is available to carriers and drivers, FMCSA use those. Many of these commenters stated that without the system being identified, there was not enough information to make a full assessment of the technical and cost impact. Some commenters were also concerned about how information would be made available to employers, drivers and other users, such as enforcement personnel. The ATA suggested that FMCSA design the system so that, if a State consents, MEs can simultaneously and instantaneously report results to both the National Registry and the driver's MVR in CDLIS and other relevant systems.

There were also comments addressing the length of time that the SDLAs would have to update the records, ranging from real time updates to three days or longer. Werner Enterprises, Inc. expressed concern for how the proposed system would work on a practical level and suggested that the timeframe for FMCSA to transmit the MEC information to the SDLA be mandated as the next day.

FMCSA Response

Although the Agency had long recognized the benefits of using the CDLIS platform, the Agency did not discuss this plan in the preamble to the NPRM. The intent of the rulemaking was not to specify the platform, but to explain that the Agency made a preliminary determination that it was feasible to collect MEC information from MEs on a daily basis, and that the more

frequent submission of the examination results would facilitate the timely transmission of information to the SDLAs. The Agency now agrees that CDLIS is the appropriate and most cost-effective means of implementing the requirements of this final rule, as many of the commenters urged. When it is implemented, FMCSA will receive and process the MEC information from the MEs, and then the data for CDL drivers will be electronically transmitted through the AAMVAnet communications system to the SDLAs. Once received, the SDLAs will be able to automatically populate the individual CDLIS driver records with the MEC information. The fields for this information have already been created and established in the CDLIS record as a result of the implementation of the 2008 Med-Cert final rule. The development of this electronic transfer of MEC information from the National Registry through the AAMVAnet communications system to the CDLIS driver records will be a joint effort of FMCSA, AAMVA and the SDLAs.

While there will be one-time costs incurred by the SDLAs to implement this secure transmission of MEC information, SDLAs should see a reduction in staff time and costs in the elimination of manual input of this MEC information over time.

2. Transmission of MEC Information for CLP/CDL Applicants/holders Only

For applicants/holders of CLP/CDLs, FMCSA proposed to transmit driver identification, examination results, and restriction information electronically from the National Registry system to the SDLAs. Many commenters were opposed the continued use of paper MECs for non-CLP/CDL applicants/holders. Several commenters believe FMCSA should require the posting of the MEC for non-CLP/CDL applicants/holders to a database similar to CDLIS. For example, the ATA suggested that FMCSA examine the benefits of requiring SDLAs to furnish MEC information to all CMV drivers, including those who require medical certification but do not require a CDL.

The American College of Occupational and Environmental Medicine (ACOEM) indicated that placing the responsibility on the ME to keep track of whether they are required to submit the results of the examination (CLP/CDL applicants/holders) or issue a paper MEC (those who require the MEC but do not require a CDL) could be confusing, especially for the intrastate CLP/CDL holders. They also stated that the proposed rule extends the burden on the MEs with more frequent

submissions and tracking of different requirements for inter/intrastate or CLP/CDL/non-CLP/CDL holders, not to mention the excepted or non-excepted drivers.

Oregon's Driver and Motor Vehicle Services expressed a similar concern that errors occurring in the transmission of the information to the National Registry will result in inaccuracies that will prevent the National Registry from transmitting the data successfully to the correct State. They suggested that a process be added for States to access the National Registry through a password-protected web account to locate the MEC for a particular driver. They stated that the ability to pull the MEC information could resolve the concerns for those States with statutes that require an MEC. They also suggested, as an alternative, that the National Registry provide a "help desk" function that would receive requests for MECs, search for a driver, and mark the record so the system can transmit the MEC information to a particular State.

FMCSA Response

FMCSA generally agrees with the suggestions. However, there are practical technical and statutory limitations that shaped the direction of the Agency's proposal.

FMCSA will electronically transmit MEC information from the National Registry to the SDLAs only for CLP/CDL applicants/holders because there is currently no IT system platform comparable to CDLIS for non-CLP/CDL applicants/holders, and the Agency does not have statutory authority to impose requirements on SDLAs concerning licensing of non-CLP/CDL applicants/holders. The 1986 legislation concerning the Federal CDL program does not provide the Agency with authority to cover non-CDL issues. Therefore, the Agency has no alternative but to focus on the electronic exchange of information between the National Registry and the SDLAs and retain requirements for paper MECs for non-CLP/CDL applicants/holders.

While some commenters expressed concern about placing a burden on MEs by having two different methods of processing MEC information for CLP/CDL applicants/holders versus non-CLP/CDL applicants/holders, FMCSA does not believe there is a burden on MEs. MEs need only focus on accurately documenting the results of the examination completely and accurately by completing the CMV Driver Medical Examination Results Form, MCSA-5850, via their individual password-protected National Registry account, following every examination. As long as

the information is complete and accurate, the FMCSA will take full responsibility for the electronic transmission of the MEC information to the SDLAs. Nothing in this rulemaking prohibits MEs from providing each driver with a copy of the MEC at the completion of the examination, so all drivers could carry a copy with them if the driver believes it is necessary. Drivers whose MEC information was transmitted electronically will have the added benefit of no longer being required to present proof directly to the SDLA. But the only *official* record of the CDL driver's physical qualifications will be the CDLIS driver record.

FMCSA acknowledges that there will be situations where the SDLA may need to pull MEC information from the National Registry for a driver, as indicated by the comments from Oregon's Driver and Motor Vehicle Services. The FMCSA is committed to putting into place a push-pull system for transmission of information between the National Registry and the SDLAs. Under this system the information could be loaded automatically onto drivers' records, but the SDLAs could also query the National Registry and pull or download the MEC information for drivers who had not yet obtained their CLP/CDL at the time of the medical examination.

3. Daily Submission of CMV Driver Medical Examination Results Form, MCSA-5850

FMCSA proposed that MEs be required to report results of all completed commercial drivers' physical examinations, including the results of examinations where the driver was found not to be physically qualified, to the National Registry system by close of business (COB) on the day of the examination.

Many commenters were opposed to the daily submission of the CMV Driver Medical Examination Results Form, MCSA-5850 because they believe that daily submission will place administrative and cost burdens on MEs and the medical practice that may result in fewer MEs willing to become certified. Some commenters believed that additional resources, technology, and staff may be required to meet this proposed requirement. Several commenters suggested that FMCSA allow significantly more time to report results and allow various methods of submission and a reduction in reporting requirements.

Southern Company believes that COB reporting is unrealistic and stated in detail how their MEs have estimated that the new requirements would

increase their administrative costs by 20-25% per physical. Schneider National, Inc. would like FMCSA to reconsider the extent to which the cost of exams would increase with the daily reporting requirement. It asserts that the cost of this increase will be more than the \$18.00 assumption used for additional administrative worker time.

The Owner Operated Independent Drivers Association (OIDA) asks the Agency to take into account certain factors that will increase the costs of the medical certification process to drivers: The costs associated with there being fewer MEs under the new system due to daily reporting requirements and the increased costs of those MEs being passed on to the driver.

Werner Enterprises stated that they were concerned by the lack of a clearly defined deadline for FMCSA to deliver the information to the SDLA. They suggested it be defined as the next business day. ATA supports daily reporting, but suggested time zone considerations be made for downloads and batch submissions. Several commenters requested that FMCSA provide a means to allow the data to be automatically uploaded from a computer, stating that this would significantly improve their ability to meet the requirements and support FMCSA, the drivers, and the States.

On the other hand, AAMVA and its membership (some of whom commented separately) stated that it is imperative for the SDLA to receive the MEC information by no later than COB on the day of the exam. They stated that without this requirement, roadside inspectors would not be able to verify that a driver is medically certified and there would be a tremendous impact on the ability of the SDLA to make an informed and accurate determination on the medical status of their commercial driving constituency.

Many recommendations were made for modifying the reporting timeline, such as separate submission deadlines for those that are not qualified versus those that are qualified, a phase-in approach for all qualification statuses, and submission deadlines based on length of certification. One commenter, Southern Company, suggested that the current medical certification reporting process of the ME sending the MEC information to the SDLA be retained for efficiency purposes.

FMCSA Response

After careful consideration of the comments received on this issue, the Agency has modified the proposed daily reporting requirement. In this final rule, MEs will be required to report results of

all CMV drivers' physical examinations performed, including the results of examinations where the driver was found not to be physically qualified, to FMCSA by midnight (local time) of the next calendar day following the examination, instead of the proposed same-day reporting requirement. FMCSA disagrees with commenters who claim that the requirement to report exam results more quickly will increase the cost of that task. This requirement will not increase the time needed to transmit the form. MEs are encouraged to allow drivers to review the information that will be transmitted to FMCSA so as to reduce data errors and to ensure that, for CLP/CDL applicants/holders, the information is promptly and accurately recorded on the driver record.

The current process requires the ME to provide the MEC to the CLP/CDL applicant/holder, who in turn must provide the information to the SDLA, a requirement that was adopted in 2008 and which became fully implemented on January 30, 2015. 79 FR 2377 (Jan. 14, 2014). The purpose of this final rule is to replace that procedure with a procedure for electronic transmission of the MEC information from the MEs to FMCSA and then from FMCSA to the SDLAs. FMCSA will develop its systems so that, when fully implemented in three years, they will ensure prompt transmission of the MEC information from FMCSA to the SDLAs for CLP/CDL applicants/holders. This should greatly improve the timeliness and accuracy of the CDLIS driver record. Even though the information for non-CDL holders will be reported to the National Registry, such drivers still need to be issued a paper MEC, Form MCSA-5876 by the ME if the driver is physically qualified. Contrary to Southern Company's comment, there is no national system for MEs to send MEC information to the SDLA.

Finally, FMCSA believes that concerns about the number of MEs listed on the National Registry are no longer warranted. As of January 5, 2015, there were more than 39,160 certified healthcare professionals on the National Registry, and the Agency had received the results concerning more than 2.8 million physical examinations conducted between May 21, 2014 and December 31, 2014.

4. Carrier To Obtain MEC as Part of MVR From SDLA

FMCSA proposed retaining the requirements for motor carriers to obtain the CLP/CDL holders' medical information as part of the CDLIS MVR from the SDLA originally imposed

through the 2008 Med-Cert final rule. Barton Solvents, Inc. pointed out that they currently request MVRs twice a year and review all drivers' records during those two periods. They stated that the proposed rule would break up the requests such that MVRs would be requested individually after the examination and annually thereafter and that the administration of this change will require several more hours of staff time for tracking and making the requests. They requested that FMCSA consider removing the proposed requirement for employers to obtain the MVR and have it placed into the driver qualification (DQ) file within 15 days, and return to the current requirement of an annual review. On the other hand, ATA fully supports FMCSA's proposed decision to allow motor carriers to use a driver's MVR containing medical qualification information to demonstrate compliance with the motor carrier's driver medical qualification monitoring requirement. Wisconsin's Department of Transportation recommended that the system allow the physician to print results of the exam and to email or eFax results to the driver. They questioned how the doctor would be notifying the driver that she/he has failed, how the driver/employer knows what that means, and if FMCSA is planning on notifying drivers when their medical certification is due to expire and/or expires.

FMCSA Response

FMCSA understands the concerns underlying Barton Solvents' request to modify the current requirement so that the MVR only be obtained and placed in the DQ file once a year at a time determined by the employer. But the current requirement under 49 CFR 391.25(a) was established because the MEC or medical variance provided by the driver may expire before a new MVR is obtained if it is only requested once a year. This would leave the employer without proof for the DQ file to verify the medical qualification of the driver. The employer's business practices need to be modified so that the MVR is obtained by the employer each time a new physical examination is taken and at least annually between examinations to be in compliance with the driver qualification requirements in 49 CFR 391.11(b)(4) and 391.41(a).

In response to Wisconsin's comments, the driver can request and receive any additional information and documents (including copies of the MER and the MEC). But the official record of the driver's qualifications (for CLP/CDL applicants/holders) will be the information transmitted to FMCSA by

the ME and then transmitted by FMCSA to the SDLA for entry on the driver record. Non-CDL holders, of course, will still have to be provided a signed copy of the MEC in accordance with 49 CFR 391.43. Finally, it is the driver's responsibility to ensure that, if required to have a valid MEC, they obtain a new one before the previous one expires. FMCSA will not be providing any notice to drivers about upcoming expiration dates. A CLP/CDL holder who allows the MEC to expire without obtaining a new one will, in due course, be notified by the SDLA that the CLP/CDL will be downgraded.

5. Carrying a Paper MEC While on Duty

FMCSA proposed that CLP/CDL holders would no longer be required to carry a valid MEC while on duty operating a CMV, even during the first 15 days after it is issued because the MEC information would be electronically transmitted from the ME to the National Registry system by close of business on the day of the examination. FMCSA would then promptly transmit the information from the National Registry system to the SDLAs electronically for entry into the appropriate CDLIS driver record. The MEC information would be posted to the driver's record, by the SDLA, within one business day of receiving the information from FMCSA.

Several commenters were opposed to CLP/CDL holders no longer being allowed or required to carry a paper MEC. They suggested we use the language "no longer required" instead of "not permitted."

Some commenters were concerned about the effect of the length of time it might take for the information to be posted by the SDLAs on the CDLIS driver record, and urged that the Agency retain the current 15-day period during which the paper MEC would be valid. On the other hand, ATA supports use of the language "no longer required to carry MEC." But it suggested FMCSA design the system to transmit to the National Registry and the driver's MVR at the same time.

Schneider National, Inc. pointed out that the MEC serves as the driver's reminder as to when his/her certification expires; without this they will need to call the ME, carrier or SLDA and ask when the physical expires. They expressed their concern for the administrative burden and costs this would cause. Schneider recommended any "pending decision" be sent to the SLDA as "not certified," then if no action is taken, no additional transmission or change of status is needed. If the driver resolves the issue

and is certified, then upon receipt of that status FMCSA would communicate a status of "certified." Other commenters suggested we retain the "temporarily disqualified" as an outcome on the MER Form, MCSA-5875, and New York's Department of Motor Vehicles asked that FMCSA clarify the State's responsibility when the driver is reported by the ME as "pending determination."

FMCSA Response

FMCSA's intent in promulgating this final rule is to eliminate the need for CLP/CDL holders to carry a paper MEC as proof of being medically qualified and to reduce fraudulent activity involved in the issuance and forging of these documents in a paper format. For CDL holders (and later for CLP holders), this requirement was established in the Med-Cert final rule, although the requirement to have a paper MEC while on duty was extended to January 30, 2015 because a few States have not yet implemented the changes necessary to comply with that rule [Med-Cert, Extension of Certificate Retention Requirements, 76 FR 70661 (Nov. 15, 2011); and Med-Cert, Extension of Certificate Retention Requirements, 79 FR 2377 (Jan. 14, 2014)]. FMCSA acknowledges that giving the ME until midnight (local time) of the next calendar day to submit the MCSA-5850 to the National Registry will require extra outreach to the drivers to encourage them not to wait until the last minute to renew their medical certification. This outreach will be in addition to general outreach to and training for drivers, employers and law enforcement to become comfortable with this new method of proving medical qualification. The electronic record of the driver's medical certification will be the only valid evidence that the CLP/CDL holder was physically qualified. Therefore, even if the CLP/CDL holder chooses to carry a paper MEC, it will not be considered valid evidence of medical qualification. As first established by the Med-Cert final rule, the purpose of eliminating the paper MEC for CLP/CDL holders is to provide current and accurate information and to reduce fraud. Non-CLP/CDL holders will continue to be required to carry the original, or a copy, of the MEC while on duty. All CMV drivers will still be required to carry any relevant medical variance documents.

FMCSA disagrees with Schneider's recommendation to forward any pending determination to the SDLAs as not certified. The pending determination category represents a situation where the ME needs additional

medical information to determine if a driver is medically qualified. When pending determination is selected, the driver may still drive until his/her existing MEC expires or the ME makes a qualification decision. This information will be submitted and stored only in the National Registry system. It will not be transmitted to the SDLAs. In addition, it would not be appropriate to forward this information as “not certified” because a determination has not been made. If it was forwarded as “not certified”, the SDLA will be required to enter “not certified” on the driver’s CDL and to begin the process of downgrading. If the disposition of the pending determination is not updated by the ME before the 45 day expiration date, FMCSA will notify the ME and the driver in writing that the examination is no longer valid and that the driver is required to be re-examined. FMCSA will retain the incomplete examination information in the National Registry System. If the driver is not medically qualified at the time of the exam, “not qualified” should be selected by the ME. This will apply at all times when a driver is not medically qualified including when a driver has a temporary and/or treatable disqualifying condition that may later be resolved enabling the driver to again be medically qualified or when a driver has not completed the recommended waiting period. FMCSA will use this to audit/check for irregularities in information transmitted to the National Registry (e.g., two or more conflicting certification statuses submitted).

It should also be pointed out that the CMV Driver Medical Examination Results Form, MCSA-5850 clearly states that the results of all examinations conducted by the ME, including incomplete and failed examinations must be reported to FMCSA. However, the Agency does not have the authority to require a driver to complete the physical examination by a certified ME. The driver is able to stop the exam at any time but all exams, including those that are incomplete will be reported by the certified ME to the National Registry.

6. Transmission of MEC Information for Interstate Drivers Only

FMCSA proposed to transfer MEC information to the SDLAs only for those CLP/CDL applicants/holders that are required to be medically certified to operate a CMV transporting property or passengers in interstate commerce.

Commenters objected to FMCSA transmitting MEC information for only interstate drivers and were concerned

that no consideration has been given for intrastate drivers that are subject to the FMCSRs. Many, including 10 of the 17 States that commented, suggested that FMCSA electronically transmit MEC information for all CMV drivers, including those that drive exclusively in intrastate commerce. The Colorado Department of Revenue/CDL Unit and AAMVA, like many others, requested clarification on whether it is the intent of FMCSA to send MEC information for interstate CLP/CDL applicants/holders only. They strongly objected to the process excluding intrastate drivers and stated that this exclusion will require the SDLAs to develop two different processes for receiving and entering MEC information. They believe that having two separate processes will be confusing to those law enforcement agencies that do not deal with CDL issues on a regular basis. The Colorado Department of Revenue/CDL Unit pointed out that while they understand that FMCSA does not regulate intrastate drivers, Motor Carrier Safety Assistance Program (MCSAP) States are required to treat intrastate drivers the same as interstate and suggested that FMCSA do the same. The Colorado Department of Revenue/CDL Unit also requested clarification on the use of the “intrastate-only flag” on the CMV Driver Medical Examination Results Form, MCSA-5850, specifically whether the driver would be certifying to inter or intrastate driving, and whether MCSA-5850 forms marked intrastate-only would be transmitted from the National Registry to the SDLAs.

Georgia’s Department of Driver Services recommended that FMCSA consider designating any driver whose medical certification is sent electronically from an ME to the SDLAs be designated by default to be self-certified as non-excepted interstate. Georgia’s Department of Driver Services believes that this designation is logical because any driver who obtains a medical certification believes that he or she is non-excepted. They stated that each SDLA could impose intrastate-only restrictions if such are applicable to a specific driver. Oregon Driver and Motor Vehicle Services suggested that FMCSA develop a process that includes a way for each State to select which of its drivers should have MECs forwarded and have the ability to change that selection if necessary, send all MEC information regardless of driving type, or develop a way for States to access and retrieve the data directly from the National Registry.

ACOEM suggested that the final rule make it clear that the driver is responsible for correctly notifying the

ME of the category into which the driver falls—interstate/intrastate and excepted/non-excepted. They stated that placing the responsibility on the ME to keep track of whether the ME is required to submit the results of the examination (for CDL holders) or to issue an MEC (for those who require an MEC but do not require a CDL) could be burdensome and confusing, especially as to intrastate CDL holders. In ACOEM’s opinion, documentation requirements should not fall on the ME. ACOEM also suggested that FMCSA develop a process to address situations where a driver obtained an MEC prior to applying for a CDL, or where CDL was checked on the MER but the driver does not have a CDL. ATA suggested that FMCSA educate MEs about the differences between interstate and intrastate drivers, as well as those that are required to have a CDL and those that do not.

FMCSA Response

The NPRM proposed that FMCSA would send MEC information to the SDLAs only for those CLP/CDL applicants/holders who are required to be medically qualified to operate in interstate commerce. In response to the States’ comments, however, the final rule has been expanded not just to include transmittal of MEC information from all examinations performed in accordance with the FMCSRs (49 CFR 391.41–49 CFR 391.49), but also to allow (but not require) MEs to transmit information about examinations performed in accordance with the FMCSRs with any applicable State variances. See 49 CFR 391.43(g)(5)(i)(B) below.

In general, States receiving MCSAP grants are required to adopt and apply to intrastate CMV drivers, physical qualification standards that are identical to or have the same effect as those applicable to interstate CMV drivers, (49 CFR 350.101, 350.105 (definition of compatible or compatibility) and 350.201(a)). A majority of States have adopted compatible physical qualification standards, and a certification that a driver has met those standards would be valid for both interstate and intrastate operations. But a minority of States, as permitted by the regulations governing MCSAP grants in 49 CFR 350.341(h)(1) and (2), have variances from the interstate standards that are only valid for drivers operating in intrastate commerce.

Moreover, States that have adopted such variances for intrastate drivers have the option of setting up their own registry of MEs qualified to apply those standards or to use MEs listed on the

National Registry who have knowledge of such variances. See 49 CFR 350.341(h)(3) and the explanation in the National Registry final rule at 77 FR at 24109–24110 and 24120. To the extent States with variances from the physical qualification standards choose to require examinations of intrastate drivers to be conducted by MEs on the National Registry, FMCSA is modifying the provisions of proposed 49 CFR 391.43(g)(5)(i)(B) to allow information about such examinations to be reported to the National Registry for transmission to the appropriate SDLA.

The FMCSA cannot take any responsibility for determining whether the MEC information for a driver who declares that he or she will operate a CMV only in intrastate commerce meets State medical qualification requirements. For this reason, FMCSA is modifying all of the medical forms to make it clear whether an ME is examining and issuing an MEC to a driver under the interstate physical qualification standards applicable to all interstate and most intrastate drivers, or under a set of standards that also includes applicable State variances from the interstate physical qualification standards. Ultimately, after the certification information for CLP/CDL holders has been transmitted to the SDLAs, it will be the responsibility of those States with variances to determine through their own procedures whether the State variances have been properly applied for drivers who have self-certified in accordance with 49 CFR 383.71(b)(1) that they are operating intrastate-only and are subject to the State standards.

As discussed in a previous response, MEs will be receiving training and outreach regarding non-CLP/CDL holders who will need a paper copy of the MEC, Form MCSA–5876. In regard to MEs having to make a decision on who is excepted from the MEC requirements, FMCSA does not believe this decision needs to be made by the ME. Anyone taking a physical examination will be assumed to be non-excepted and in need of an MEC. CMV drivers excepted from the physical qualification requirements will not need to obtain an MEC.

7. Transfer of Medical Variance Information

FMCSA proposed to electronically transmit medical variance information for all interstate CMV drivers to the SDLAs.

Commenters were concerned about the transmission of medical variance information for all CMV drivers. The Colorado Department of Revenue/CDL

Unit and AAMVA requested that FMCSA clarify how the SDLAs will receive this information for non-CDL holders and what they would be expected to do with the information. The Nebraska Department of Motor Vehicles stated that specific transmission requirements should be identified and that currently the transmission of medical variance information is not always timely. They requested that medical variance information be transmitted through the National Driver Registry and that it be done by COB on the day of the exam. ATA suggested that FMCSA initiate a pilot project to examine whether medical variance information can also be transferred from paper certificates carried by a driver to electronic transmission. Oregon's Driver and Motor Vehicle Services questioned how, without knowing whether a variance might be approved, an ME knows whether a patient is physically qualified. They suggested instructions be provided for how to proceed when checking "qualified . . . only when accompanied by."

FMCSA Response

Medical variance information for all CLP/CDL holders will be electronically transmitted from the National Registry to the SDLAs. FMCSA will input approved exemption information and approved SPE certificates. This information will then be promptly transmitted to the appropriate SDLA. Because the status of a variance may or may not be known at the time of the medical examination, we cannot provide a specific timeframe in which the variance information will be transmitted to the SLDA. Non-CLP/CDL applicants/holders variance information will continue to be electronically transmitted through encrypted email to the SDLAs. The SDLAs will use medical variance information of non-CLP/CDL applicants/holders for verifying the validity of medical variance documents provided by drivers and for informational purposes.

For those CMV drivers who are applying for an exemption or SPE for the first time, the medical examination results will be held in the National Registry system until the variance is approved. At that time, the medical examination results and variance information will be promptly transmitted to the appropriate SDLA. Grandfathered exemption information will be inputted into the National Registry and promptly transmitted to the appropriate SDLA. However, FMCSA and the SDLAs will also be able to query the system to retrieve

grandfathered exemption information. All CMV drivers are required to carry any relevant medical variance documents.

When MEs select the "qualified . . . only when accompanied by . . ." option on the CMV Driver Medical Examination Results Form, MCSA–5850; MER Form, MCSA–5875; and/or the MEC, Form MCSA–5876, they are certifying that the driver is physically qualified with the specified waiver/exemption or SPE. It is up to the driver to obtain the waiver/exemption or SPE. In this case, the MEC is not valid unless accompanied by the waiver/exemption or SPE.

8. Voiding the MEC

OOIDA pointed out that the NPRM did not elaborate on or provide regulatory language for the process of voiding an MEC and questioned the lack of detail for the procedures that FMCSA would use to void an MEC. OOIDA recommended that in order to protect drivers from having their MEC incorrectly voided and careers harmed, no final rule should be issued until such a procedure is proposed, the public is given an opportunity to comment, and provisions are written into the final rule. Schneider National, Inc. commented that FMCSA proposed a new requirement that the State must also update the medical status to "not certified" when the medical certification is voided by FMCSA. Schneider National, Inc. requested that this requirement be changed to require the State to post on the CDLIS driver record a status of "invalid" rather than "not certified" in the cases of an invalidated MEC. Schneider National, Inc. also requested more detail on the procedures that FMCSA would follow.

FMCSA Response

As explained in both the National Registry final rule (77 FR at 24108) and in the NPRM in this rulemaking (78 FR at 27348), under the authority granted by 49 U.S.C. 31149(c)(2), FMCSA may void an MEC issued to a CMV driver if it finds either that an ME has issued a certificate to a driver "who fails to meet the applicable standards at the time of the examination" or "that a ME has falsely claimed to have completed training in physical and medical examination standards." FMCSA has implemented this authority on a case-by-case basis as appropriate to the circumstances. The Agency has developed internal processes for evaluating the validity of certificates in the wide variety of possible situations where such review appears to be appropriate under the statutory

standard. This will include review of the data submitted by MEs to the National Registry system, as well as complaints, field investigations, crash reports and other sources. FMCSA will provide the affected driver a notice of the proposed action and an opportunity either to obtain a new MEC, if appropriate, or to provide the Agency with any legal or factual reasons why a new medical certificate should not be required before voiding the MEC. If the decision is made to void the driver's certificate, FMCSA will notify the driver. If the driver holds a CLP/CDL, notification will be electronically transmitted by FMCSA to the driver's SDLA through the National Registry, and the SDLA will change the CLP/CDL holder's medical status to "not certified" within 10 days and notify the driver of the action taken.

C. Use of Revised MER Form and MEC

FMCSA proposed to require certified ME performing physical examinations of CMV drivers to use a newly developed MER Form, MCSA-5875, in place of the current MER Form and to use Form MCSA-5876 for the MEC. Both forms will be prescribed for mandatory use.

While many commenters supported the changes to the MER Form, MCSA-5875, many also raised a number of different issues related to this form. Each of those issues is discussed below. The only comments received regarding the revised and prescribed MEC, Form MCSA-5876, were suggestions to add a CLP indication and to remove the intrastate-only selection. Both issues are discussed below.

Collection of Driver Health Information

OIDA stated that NPRM did not attempt either to make a connection between the new questions and the driver medical qualification requirements or to otherwise justify their adoption into the medical certification form. They stated that FMCSA does not have the authority to make such changes to the MER without describing its authority to do so, and without dealing with the privacy implications of the proposal.

Several other commenters raised questions about the need and relevance of some of the information about the drivers' health history requested on the revised MER. ATA expressed its concern about removing the instructions from the MER Form, MCSA-5875 without replacing them with documentation to distinguish between guidance and regulation and that removing the reference to guidance

undermines the distinction between the two.

Many other commenters made recommendations for modifying the MER Form, MCSA-5875. For example, AAMVA and others suggested we include a CLP box in addition to the CDL box on the MER Form, MCSA-5875 for clarification purposes and to avoid the possibility of a driver applying for a CLP not checking the CDL box and their MEC information not being forwarded to the SDLA. The Delaware Division of Motor Vehicles and others suggested that we remove the intrastate-only option, contending that all MEC information should be submitted to the National Registry and sent to the SDLAs.

FMCSA Response

FMCSA believes its statutory authority for this rulemaking, as provided in the legal basis section, is clear. The Agency has ample legal authority to adopt recordkeeping requirements needed to implement the proposed rule, and it may adopt these ancillary provisions as part of the same rulemaking. The Agency does not believe it is necessary to articulate the separate statutory authority for each specific change to the form.

FMCSA notes that proposed changes to IC burdens are covered through its actions to comply with the Paperwork Reduction Act. To the extent that the proposed changes would affect the estimated paperwork burden, the Agency discusses those matters and seeks public comment on the burden and associated costs of the recordkeeping requirement.

With regard to privacy of medical information, FMCSA does not collect details of drivers' medical history. This information is collected to facilitate the completion of a thorough examination by the ME and an appropriate assessment whether the driver meets the physical qualifications standards. The MEs are responsible for maintaining the MER, but they are not required to submit those reports to FMCSA absent a request from the Agency or its State partners in association with an investigation or audit. FMCSA emphasizes that the driver health history questions, including those that have been added, are specifically linked to the physical qualification standards set out in 49 CFR 391.41(b).

The section for the driver's signature has been revised to read as follows in order to emphasize the importance of providing complete and accurate responses:

I certify that the above information is accurate and complete. I understand that

inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate, that submission of fraudulent or intentionally false information is a violation of 49 CFR 390.35, and that submission of fraudulent or intentionally false information may subject me to civil or criminal penalties under 49 CFR 390.37 and 49 CFR 386 Appendices A and B.

The Agency proposed to remove the Instructions for Performing and Recording Physical Examinations from 49 CFR 391.43(f), because FMCSA recognizes that MEs, who have been licensed, certified, or registered in accordance with applicable State laws and regulations to perform physical examinations thereby possess the knowledge, skills, and abilities to perform physical examinations, and do not need general instructions in performing and recording physical examinations. The Agency proposed to publish new versions of the instructions in FMCSA guidance documents. To eliminate redundant or unnecessary requirements, the instructions have been removed from 49 CFR 391.43(f).

The Agency also proposed to remove the information about the driver's role, a listing of physical qualification standards for drivers, detailed instructions to the medical examiner, and the medical advisory criteria from the newly developed MER Form, MCSA-5875, and to publish them in FMCSA guidance documents. Because the majority is information that healthcare practitioners must be knowledgeable of in order to be licensed, registered or certified by their States to perform physical examinations, this material has been removed from the newly developed MER Form, MCSA-5875. The Agency recognizes that MEs frequently refer to the guidance in the medical advisory criteria when determining if a driver meets the physical qualification standards, however, is therefore publishing the medical advisory criteria without substantive change as an appendix to 49 CFR part 391, instead of in the MER Form, MCSA-5875. In addition, brief instructions for completing the MER Form, MCSA-5875, are included as part of the revised form.

For clarification purposes, an entry for CLP has been added with the entry for CDL on the CMV Driver Medical Examination Results Form, MCSA-5850; MER Form, MCSA-5875; and the MEC, Form MCSA-5876 has been changed from a box that reads "CDL, YES or NO" to a box that reads "CLP/CDL Applicant/Holder, YES or NO." These changes should cover all possibilities for a person who is

applying for, or is a holder of, a CLP or CDL, and should eliminate the possibility that a driver who is applying for a CLP overlooks checking the CDL box, which could result in MEC information not being forwarded to the SDLA.

The intrastate-only option on the CMV Driver Medical Examination Results Form, MCSA-5850; MER Form, MCSA-5875; and the MEC, Form MCSA-5876 has been removed and replaced with two certification options (1) driver certified in accordance with the FMCSRs (49 CFR 391.41-391.49) and (2) driver certified in accordance with the FMCSRs with any applicable State variances (which will only be valid for intrastate operations). This has been done in order to implement the Agency's decision explained above to facilitate the transmission of driver information for both interstate and intrastate operations, while clearly differentiating on the relevant documentation which standards (interstate or intrastate) are involved.

1. Privacy Act Compliance and Privacy Impact Assessment (PIA)

OOIDA stated in its comments that the PIA was not published until July 2013 and contains no greater discussion concerning the content of the revised MER form than does the NPRM. OOIDA commented that the proposed expansion of the information about a driver's personal health history requested and recorded on a new MER greatly increases the opportunity for such personal information to be distributed and used by those without an interest in safety and for purposes other than driver safety. OOIDA stated that the NPRM described the Privacy Act requirements as not applicable to the MER because the proposed rule does not require the government's collection of personally identifiable information (PII). OOIDA explained that this is not exactly true because this rule greatly expands the amount of information that the government collects or otherwise has access to under existing rules, and that by changing the universe of MER information used by other rules, any privacy analysis performed when those rules were promulgated would be out-of-date under the proposed rule. OOIDA stated that FMCSA must now examine, under the Privacy Act, each of its rules that permit or require the government to obtain and review the new MERs. It asked if the answers to these questions will be stored and have some impact on the driver in the future.

FMCSA Response

There has been and will be adequate opportunity for public awareness of, and in some respects for public comment on, the privacy interests affected by this final rule. The Agency, in conjunction with the Department's Chief Information Office, has prepared and made available a PIA.³ The PIA is prepared in accordance with Section 522(a)(5) of the Fiscal Year 2005 Omnibus Appropriations Act, Pub. L. 108-447, 118 Stat. 3268 (Dec. 8, 2004).⁴ The PIA provides a detailed explanation of the privacy interests involved in the entire National Registry program. It sets out the careful and thorough steps FMCSA and the Department have taken and will take to protect those interests, while at the same time carrying out the statutory directives to ensure that CMV drivers are physically qualified and can operate safely and that operation of a CMV does not have a deleterious effect on their health.⁵

However, because of the unexpected delays in making the PIA available in the rulemaking docket in support of the NPRM, FMCSA published a Notice of Availability advising interested members of the public that there was an additional, limited opportunity for comment on the privacy issues involved in the proposed rules until June 11, 2014. 79 FR 30062 (May 27, 2014).⁶

The Agency provided this opportunity to comment on the possible impact of the rules proposed in the NPRM on the protection of privacy of information used in determining the physical qualifications of CMV drivers, in light of the evaluation by the Agency and the Department of the protection of privacy of information set out in the PIA. In response to the May 27, 2014, Notice of Availability, FMCSA received two comments. One comment was from a driver stating that the National Registry was making his job more difficult. The other comment was from a medical office commenting on the submission requirements and suggesting edits to the MER Form, MCSA-5875. Both comments received were considered to be outside the scope of the PIA because neither comment addressed the protection of privacy of information collected. They were nevertheless considered as late-filed comments to the NPRM, consistent with the Agency's policy to consider, to the

³ Available at <http://www.regulations.gov/#!documentDetail;D=FMCSA-2012-0178-0039>.

⁴ Set out as a note to 5 U.S.C. 552a, the Privacy Act, 5 U.S.C. 552a.

⁵ 49 U.S.C. 31136(a)(3) and (4).

⁶ <http://www.regulations.gov/#!documentDetail;D=FMCSA-2012-0178-0075>

extent practicable, comments received after the close of a routine comment period under 5 U.S.C. 553(c).

2. Paperwork Reduction Act Compliance

ATA suggested that FMCSA publish an IC request to examine the appropriateness of the amendments and investigate other potential additions or subtractions to the MER Form, MCSA-5875.

FMCSA Response

As required by the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), FMCSA submitted the information collection requirements associated with the proposed rule, including the newly developed MER Form, MCSA-5875, to OMB for its review. The final rule has a decrease in annual paperwork burden hours (401,904 hours) as detailed in OMB control number 2126-0011 Commercial Driver Licensing and Test Standards and 2126-0006 Medical Qualification Requirements Supporting Statements in the docket. FMCSA analyzed this rule and determined that its implementation will decrease the currently approved IC burden hours covered by both of these control numbers. A detailed analysis of each IC activity can be found in the Supporting Statements attachments, which are in the public docket for this rulemaking. The Agency believes that the burden has not increased from what is currently being collected on the MER Form, MCSA-5875 and is not a new collection of information but is replacing the current MER being used by MEs. Much of the same information is being collected, just in a different format.

3. Cost Impacts of Revised Form

Southern Company stated that increasing reporting requirements on the MER Form, MCSA 5875, will have costly impacts and that form changes need to be evaluated in conjunction with the registration and certification of MEs on the National Registry and pending medical examination guideline changes for MEs. They indicated that together these rules will prove very costly, confusing, and disruptive to their company, the energy industry and the trucking industry. They stated that the expanded set of questions on medical history will increase direct and indirect costs of the exam because the driver will need 30-45 more minutes to complete the medical history and the ME will have to discuss the answers with the driver, increasing the total time for the

office visit. They stated that this warrants more time to analyze the economic impact since this would potentially increase the trucking industry's costs significantly as well and negatively impact the nation's economy. They suggested that this regulatory action should be combined with the related rule changes as mentioned above and proposed for comments.

FMCSA Response

The newly developed MER Form, MCSA-5875, contains much of the same information being collected on the current MER, but in a different format, and thus is not considered a new collection of information. Therefore, the burden has not increased from what is currently being collected on the MER. In addition, all questions on the MER Form, MCSA-5875, can be specifically linked to provisions of 49 CFR 391.41, physical qualifications for drivers, or to ensuring that there is no negative or deleterious effect on the driver's health making it more difficult to drive a CMV safely. FMCSA does not consider the questions on the revised MER Form, MCSA-5875, to be long or onerous for the driver to complete. The time spent to fill out the form or to complete the exam will not increase to the extent that the commenter suggests.

D. Compliance Date for States

FMCSA proposed that beginning 3 years after the effective date of the final rule, FMCSA would electronically transmit all of the information on the MEC from the National Registry system to the SDLAs for CLP/CDL applicants/holders only. FMCSA proposed this date based on its estimate of when all States will have the information technology systems in place to receive the information from the National Registry.

Several commenters were concerned that three years is not enough time for the States to come into compliance. Oregon's Driver and Motor Vehicle Services (Oregon) stated that three years is not enough time for implementation because the mechanism for sending the information to the States has not yet been determined. Oregon commented that if FMCSA decides to use CDLIS, development of the system requirements will take at least a year, leaving two years or less for the States to do the work needed to comply. The State questioned why FMCSA would choose to build in guaranteed noncompliance by most, if not all by requiring the States to come into compliance within 3 years. They suggested that FMCSA delay the final rule until the technical details have been coordinated.

California's Department of Motor Vehicles (California) agreed that three years is not enough time to complete all necessary program changes. California pointed out that many States are not able to implement rules within three years of being published as final, due in part to receiving technical specifications 18–24 months after the effective date, leaving the States a year or less to perform system analysis and programming. They also pointed out that competing resources with existing State-mandated projects and laws is an issue for them. They suggested that FMCSA delay implementation for five years.

Delaware's Division of Motor Vehicles (Delaware) stated that shortening the proposed date would be problematic. Delaware explained that the State has to propose and pass legislation, fund programming, conduct examiner training, complete structured testing, etc., all while maintaining regular operations. The State indicated that changes are prioritized and must have established timelines. They stated that shortening the deadline will hinder an SDLA's ability to properly manage its priorities. They recommended FMCSA retain a hard date for implementation.

Schneider National, Inc. (Schneider) stated that without a consistent implementation date for all parties, the driver will be unsure as to whether the ME will submit the information on the MEC to the SDLA. If changes have not been implemented, drivers must continue to use a paper copy of the MEC to ensure they remain in compliance. Schneider pointed out that there is no language to hold the ME accountable to tell drivers if the information would be communicated electronically or if the driver needs to deliver a paper copy to the SDLA.

On the other hand, Advocates recommended that the Agency set an earlier date for compliance. They stated that one year should be sufficient but certainly no more than 18 months.

New York's Department of Motor Vehicles (New York) stated that another potential cost may be SDLA upgrades to connect to the National Registry database; however the Agency is unable to estimate and quantify at this time. New York asked if States would be able to apply for a CDLPI grant. Several commenters questioned the date beginning on July 8, 2014, if the driver has a CLP and has certified that he or she expects to operate in interstate commerce that the driver has a valid MEC and any required medical variances. They believe this date should be July 8, 2015, based on the extension granted for the Commercial Driver's

License Testing and Commercial Learner's Permit Standards.

FMCSA Response

While several commenters voiced concern that three years is not enough time for States to come into compliance with these new requirements because the mechanism for sending the medical certification information to the States has yet to be determined, the Agency believes it is sufficient time because the decision has now been made that CDLIS will be the mechanism for sending the medical certification information from the National Registry to the SDLAs. California's Department of Motor Vehicles and several other commenters based their concern in part on the past history of receiving technical specifications 18–24 months after the effective date of the final rule, leaving the States a year or less to perform system analysis and programming. FMCSA is working to get these technical specifications to the States sooner than in the past. Therefore, FMCSA has decided to keep the State compliance date at three years from the effective date of the final rule, as proposed in the NPRM. Some commenters misunderstood the Agency's intent regarding the compliance date and thought that we were considering different dates for each State based on when they would have the information technology systems in place to receive the information from the National Registry. The Agency was simply pointing out that if all the States were ready earlier than three years from the effective date of the final rule that we would consider shortening the compliance date. The State compliance date will be unified as suggested by Schneider and will be three years from the effective date of the final rule.

E. Coercion

No comments were received suggesting that the proposed rule would result in any operator of a CMV being coerced to violate any of the safety regulations issued pursuant to 49 U.S.C. 31136. The rule is intended to enhance compliance with the physical qualification requirements applicable to all CMV drivers. As noted in the NPRM, by providing MEC information and medical variance information directly to the SDLAs, FMCSA will reduce to the greatest extent possible the coercion of drivers to operate with invalid or improper medical certificate.

F. Issues Outside of the Scope of This Rulemaking

A number of respondents submitted comments on topics that were either

outside the scope of what was proposed in the NPRM or were based on a misunderstanding of what the Agency proposed in this rulemaking. Most of these comments relate to the 2008 final rule, in Med-Cert and the 2012 final rule, in National Registry. Many comments raised issues that either were actually raised (and previously addressed) or should have been raised during the proceedings that resulted in the two previous final rules.

FMCSA Response

One comment outside the scope of what was proposed in the NPRM concerned the lost time and money associated with MEs being required to go through training and be tested to be listed on the National Registry. The training and testing that is required is part of the National Registry of Certified Medical Examiners final rule that was published on April 20, 2012. Full compliance with the National Registry final rule took effect on May 21, 2014. Therefore, all CMV drivers (both CDL and non-CDL) are now required to obtain an examination and MEC from an ME listed on the National Registry.

1. Fraud and How the SDLA Will Be Notified

The Colorado Department of Revenue/CDL Unit questioned whether FMCSA expects the SDLA to take a false statement disqualification action, assuredly as contained in 49 CFR 383.73(j), when FMCSA determines that an individual has falsified potentially disqualifying medical information. They also questioned how FMCSA would notify the SDLA of possible fraud and how much information will be disclosed to the SDLA to allow them to take the false statement disqualification.

FMCSA Response

Although this is not a matter within the scope of this rulemaking, it is an important point that needs explanation. As explained in the 2008 final rule and subsequent technical amendments in Med-Cert, the provisions of 49 CFR 383.73(j) regarding penalties for false information submitted by CLP/CDL applicants/holders require SDLAs—not FMCSA—to take the actions specified in section 383.73(j) when the State determines that an applicant has falsified medical information. If FMCSA review of MEC information finds a CLP/CDL holder has falsified information in the course of obtaining the MEC, FMCSA may void the MEC and will then notify the SDLA. The SDLA then notify the CLP/CDL holder of the “not certified” status and begin the process for the downgrading of the CLP/

CDL as set out in 49 CFR 383.73(o)(4)(i). The SDLA can also take any of the actions set out in section 383.73(j).

2. Safety Benefits

One driver stated that there are no proven safety benefits to submitting private medical information to the Federal government and for making the medical doctors go through training on driver fitness and join another federally run program so they can be on the approved list.

FMCSA Response

FMCSA is required by statute to establish and maintain the National Registry, and it did so in the final rule published in 2012. 49 U.S.C. 31136(a)(3) and 31149. The benefits of that program were thoroughly discussed and explained in that final rule. Further consideration of them in this proceeding is not warranted. The Agency is not requiring the submission of private medical information, only the MEC, which serves as proof the driver meets the physical qualifications standards. Drivers have long been required to present the MEC during roadside inspections, and employers have long been required to maintain a copy of the MEC in DQ files. The private medical information is contained on the MER which continues to be maintained by the healthcare professional. While FMCSA and employers may request access to the MER, the Agency does not intend to request the document except as part of an investigation or audit.

3. MERs

ATA suggested that after a medical examiner uploads medical qualification information for a driver holding a medically downgraded CDL, FMCSA should require SDLAs to automatically return that driver's license to interstate status. ATA stated that they hope that any forthcoming employer notification system FMCSA might develop will account for this process by eliminating needless paperwork for carriers maintaining DQ files that must be renewed upon a medical certificate's expiration. They suggested that the Agency examine ways to incorporate medical status monitoring into any forthcoming employer notification system authorized under section 32303 of MAP-21 instead of forcing a carrier to request additional reports every time the date on a driver's medical qualification changes.

Schneider National, Inc. recommended that the language be changed to allow the motor carrier to continue to require drivers to provide a copy of their MEC and Form MCSA-

5876. They stated that they have a third party vendor that ensures the drivers are disclosing all their known medical conditions and they also compare the prior physical (if available) to the new physical to identify any errors or issues. They pointed out that 15–20% of driver physicals require them to send the driver back to the clinic, either due to the driver failing to disclose all relevant medical information on the form or because of a clinic error.

FMCSA Response

This rule will not require MEs to inform drivers' employers and provide the motor carrier a copy of a driver's MER Form, MCSA-5875, when a driver completes a medical examination. For MEs to provide the motor carrier employer with a copy of the MER Form, MCSA-5875, there will need to be an agreement between the driver and employer, often as a condition of employment.

Under § 391.43(g)(2), if the ME finds that the person examined is physically qualified to operate a CMV in accordance with § 391.41(b), he or she must complete a certificate in the form prescribed in paragraph (h) of this section and furnish the original to the person who was examined. The examiner must provide a copy to a prospective or current employing motor carrier who requests it. Under § 391.43(i), each original (paper or electronic) completed MER Form, MCSA-5875 and a copy or electronic version of each MEC, Form MCSA-5876 must be retained on file at the office of the ME for at least 3 years from the date of examination. The ME must make all records and information in these files available to an authorized representative of FMCSA or an authorized Federal, State, or local enforcement agency representative, within 48 hours after the request is made.

When the SDLA receives notification of medical qualification information for a driver with a CDL downgraded for medical qualification reasons, the driver's medical status should be updated to “certified” and the CDL status updated to “licensed.” An SDLA may have additional requirements.

VII. Section-by-Section Explanation of Changes

This section includes a summary of the regulatory changes made in 49 CFR parts, 383, 384 and 391 organized by section number.

A. Changes to Part 383

Part 383 contains the requirements for CLP/CDLs. With certain exceptions, the rules in this part apply to every person

required to possess a CLP/CDL to operate a CMV in commerce, to all employers of such persons, and to all States.

Section 383.71(h). FMCSA changes the requirement of a CDL/CLP applicant/holder from providing the State with an original or copy of their MEC (previous edition) to FMCSA providing the State with the electronic MEC information beginning three years after the effective date of this final rule.

Section 383.73(a)-(b). Three years after the effective date of the final rule, FMCSA will change the requirement that the State must post the MEC (previous edition) received from the CLP/CDL applicant or holder to the CDLIS driver record to the State posting the electronic MEC information received from FMCSA.

Section 383.73(o). Three years after the effective date of the final rule, FMCSA will change the requirement that the State post the original or copy of the MEC (previous edition) information to the CDLIS driver record within 10 calendar days after receipt to a requirement that the State post the electronic MEC, Form MCSA-5876, information to the CDLIS driver record within 1 business day after receiving the electronic information from FMCSA. The final rule also adds a requirement that, when the SDLA receives information that a driver's MEC has been invalidated because the driver has been found to be not physically qualified in a subsequent examination by an ME on the National Registry, the SDLA must change the driver's status on the CDLIS record to "not certified" and begin the process for downgrading the CLP/CDL. FMCSA also changes the requirement that the State retain an original or copy of the MEC (previous edition) for 3 years to a requirement that it retain an electronic record of the MEC information, Form MCSA-5876, for 3 years.

Paragraph (o) also requires the States to post the medical variance information provided by FMCSA, including the dates of issuance and expiration, along with the MEC, Form MCSA-5876, information. This variance information posting requirement was previously incorporated by reference in § 384.107 of this chapter from AAMVA's "Commercial Driver's License Information System State Procedures Manual," Release 5.3.2.1, August 2013. This requirement will be effective immediately because States are already required to post this information. FMCSA also reduces the time the State has to post the medical variance information received from FMCSA to the CDLIS driver record from within 10

calendar days to 1 business day from the date of receipt because the information will be sent and posted electronically. FMCSA also added a new requirement that the State must update the medical status to "not certified" when the medical certification is voided by FMCSA.

B. Changes to Part 384

Part 384 contains the requirements that the States comply with the provisions of section 49 U.S.C. 31311(a). Part 384 includes the minimum standards for the actions States must take to be in substantial compliance with each of the 25 requirements of 49 U.S.C. 31311(a), establishes procedures for FMCSA determinations of State compliance, and specifies the consequences of State noncompliance.

Section 384.234. FMCSA added an administrative amendment to this section to include driver medical certification recordkeeping requirements for CLP applicants in Part 383.

Section 384.301. FMCSA amended this section by adding a new paragraph (i). FMCSA has always given the States 3 years after the effective date of any new rule to come into substantial compliance with new CDL requirements. This allows the States time to pass any necessary legislation and to modify State systems to comply with the new requirements, including CDLIS. New paragraph (i) would specify the 3 year compliance date for States.

C. Changes to Part 391

Part 391 establishes minimum qualifications for persons who drive CMVs. The requirements in this part also establish minimum duties of motor carriers with respect to the qualifications of their drivers.

Section 391.23(m)(2)(i)(A). FMCSA made an editorial change to eliminate an erroneous reference to § 383.71(a)(1)(ii) and to add a reference to 383.71(b)(1)(ii), which describes the four types of self-certifications.

Section 391.23(m)(2)(i)(B). Three years after the effective date of the final rule FMCSA will eliminate the requirement for the motor carrier to verify and document in the DQ file that a CDL holder was certified by an ME listed on the National Registry. Employers will no longer need to verify the examination and ME listing, because that information will be sent to the SDLAs through CDLIS from the National Registry. Motor carriers will still be required to meet this requirement for non-CDL holders.

Section 391.41(a)(2). Three years after the effective date of the final rule,

FMCSA will eliminate the provision requiring drivers required to have a CLP/CDL to carry a current MEC (previous edition) for 15 days.

Section 391.43. FMCSA removed the Instructions for Performing and Recording Physical Examinations section in § 391.43(f) to eliminate redundant or unnecessary requirements.

Beginning 3 years after the effective date of the final rule, FMCSA will eliminate in § 391.43(g)(2) the requirement that MEs provide the MEC, Form MCSA-5876, to drivers required to have a CLP/CDL (and to their employers), because the MEC information will be promptly and accurately transmitted electronically to the SDLAs for entry on the CDLIS driver record. But the ME must still provide the MEC, Form MCSA-5876, to non-CDL drivers and requesting employers, as currently required.

FMCSA inserts two new paragraphs in § 391.43(g). The first, paragraph (g)(3), requires the ME to inform the driver if a determination has been made that the driver is not physically qualified, and that this information will be reported to FMCSA. Upon receiving this report, FMCSA will invalidate any MECs previously issued to the driver that are contained in the Agency's records and will electronically transmit this report to the appropriate SDLA. The second new paragraph, (g)(4), requires the ME to inform the driver if the determination of whether the driver is physically qualified requires additional information or further examination. This pending status will remain in effect for 45 days, and will be reported to FMCSA. If the examination is not completed within the 45-day period, the examination will no longer be valid and the driver will be required to obtain a new examination in order to obtain a MEC, Form MCSA-5876.

In § 391.43(g)(5)(i)(B) (renumbered from (g)(3) because of the two new paragraphs above), FMCSA requires that, beginning 3 years after the effective date of the final rule, the ME must report results of all commercial drivers' physical examinations to FMCSA by completing a CMV Driver Medical Examination Results Form, MCSA-5850, via the ME's individual password-protected National Registry web account by midnight (local time) of the next calendar day. MEs are required to report the results of all examinations conducted in accordance with the physical qualification standards in 49 CFR part 391, subpart E that apply to CMV drivers engaged in interstate operations. In addition, as a convenience to those States that have variances from those standards for

drivers operating intrastate, the rule allows MEs to transmit such information to the National Registry, if required by the States involved, for eventual transmittal to the SDLAs.

In § 391.43(g)(5)(ii), FMCSA will require MEs to report to FMCSA whenever the ME does not complete any driver medical examinations during the preceding 30 days, beginning on the effective date of the final rule.

FMCSA revises § 391.43(h) to require MEs to use the MEC, Form MCSA-5876. The form has been modified to require the ME to indicate whether the driver is being certified as qualified in accordance with either the standards applicable to all interstate drivers or any State standards for intrastate drivers that have variances from the Federal standards in effect. This replaces the designation that the driver is either interstate or intrastate. Other minor editorial edits have been made to the form for clarity. The other information required to be entered on the certificate is unchanged from the information required under the current regulation.

Section 391.45. FMCSA has decided that when a driver has been determined to not be physically qualified, any previous MECs issued to a driver will be deemed invalid as explained above regarding § 391.43(g)(3). FMCSA has added a new paragraph at the end of this section that requires a driver to be medically examined and certified before operating a CMV after previous certifications have been invalidated because of a driver not being physically qualified under the provisions of proposed new § 391.43(g)(3).

Section 391.51. In § 391.51(b)(7), FMCSA has eliminated the exception that allows the motor carrier to use an MEC (previous edition) as proof of medical certification for CLP/CDL holders in the DQ file, because States will be required to record medical certification information in driver's record automatically upon receipt from FMCSA.

Appendix to Part 391. FMCSA has added medical advisory criteria as an Appendix at the end of this section. The advisory criteria (which are recommendations for use by MEs) are reproduced without substantive change from the advisory criteria currently included in the MER. FMCSA recognizes that some of these advisory criteria should be updated or revised. However, such substantive changes should not be made without notice and opportunity for public comment. FMCSA intends to seek public comment on revisions to the advisory criteria as promptly as feasible to bring them up to current standards.

D. Compliance Date

In order to allow sufficient time for the SDLAs and FMCSA to develop and implement necessary information system changes, most of the final rule provisions will take effect three years after the effective date of the final rule. The provisions requiring MEs to notify FMCSA if they have not performed any driver physical examinations during the previous month and the State to update the medical status to "not certified" when the medical certification is voided by FMCSA under the authority of 49 U.S.C. 31149(c)(2) will go into effect on the effective date of the final rule. To allow sufficient time for the certified MEs to make the necessary adjustments to their business requirements, the provisions requiring MEs to use the new MER Form, MCSA-5875 and MEs to use the prescribed Form MCSA-5876 for the MEC will go into effect six months after the effective date of the final rule.

Beginning June 22, 2018, MEs will be required to report the results of all commercial drivers' physical examinations to FMCSA by midnight (local time) of the next calendar day following the examination, by completing a CMV Driver Medical Examination Results Form, MCSA-5850, via their individual password-protected National Registry web account. For CLP/CDL applicants/holders, FMCSA will electronically transmit driver identification, examination results, and restriction information from the National Registry system to the SDLAs, as well as information about MECs invalidated under new 49 CFR 391.43(g)(3) and 391.45(d). FMCSA will also electronically transmit medical variance information for all CMV drivers to the SDLAs. SDLAs will be required to post the medical variance information provided by FMCSA, including the dates of issuance and expiration, to the CDLIS driver record within 1 business day of receipt for CDL/CLP holders.

VIII. Regulatory Analyses and Notices

A. E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined that this final rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), and is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979) because it is not expected to generate substantial congressional or

public interest. The impact of the final rule is estimated to be \$12 million in up-front costs and \$10.16 million in annual savings, so the rule's impact is not expected to exceed the \$100 million annual threshold for economic significance. The purpose of the principal requirements established in the final rule is to modify the requirements adopted in two previous rules so that the driver identification, examination results, and restriction information for CLP/CDL holders is electronically transmitted by a certified ME listed on the National Registry to the FMCSA by midnight (local time) of the next calendar day after the examination, and then electronically transmitted by FMCSA within one business day to the SDLA for entry into the appropriate driver record.

1. Summary of Estimated Costs

FMCSA is not able to quantify the benefits of ensuring that CMV drivers are medically qualified and of reducing the falsification of medical certification by drivers. The revised medical forms will not take significantly longer to complete than the previous versions. They contain much of the same information being collected on the current MER, but in a different format. The requirement that CMV driver medical examination results be transmitted to FMCSA by midnight (local time) of the next calendar day following the exam is not expected to increase the burden on the ME or their staff, because the total time required to transmit each form does not increase based on when the form is completed and transmitted.

FMCSA expects there will be costs for the SDLAs to modify their systems to accept transmission of MEC and variance information from the National Registry system. FMCSA and the AAMVA, which facilitates the maintenance of driver data and communication with the SDLAs, also need to update their systems and test the connections between databases. FMCSA estimates the costs of these efforts by using estimates that were made for previous efforts. The SDLAs (51 separate entities) will perform tasks similar to (but likely smaller in scope than) their efforts to comply with FMCSA CDL records requirements. Estimates for that included \$6,147,000 for input and inquiry screens, \$1,564,000 for an expanded database, \$1,665,000 for systems and user acceptance testing, and \$590,000 for testing their links with AAMVA. This

totals \$9,966,000 for all SDLAs⁷. Additionally, FMCSA and AAMVA must expend funds to connect and test the links between their databases—an estimated \$1,000,000 will be necessary in each case. The total expenditures needed to create and test the links between databases will therefore be \$11,966,000.

2. Summary of Estimated Benefits

Potential quantifiable estimated benefits, as detailed in the revised Medical Qualification Requirements (OMB control number 2126–0006) and the Commercial Driver Licensing and Test Standards (OMB control number 2126–0011) Supporting Statements, posted in the docket, include: (1) Employers of drivers will no longer be required to verify the ME's National Registry number for CDL holder examinations because only MEs listed on the National Registry will be able to forward MEC information to the National Registry. This will result in 251,695 fewer annual burden hours (from 308,200 hours to 56,505 hours) and an annual cost savings of \$4.78 million (from \$5,855,800 to \$1,073,595); (2) ME's will no longer need to handwrite the MEC for CLP/CDL applicants/holders because the information will be electronically transmitted by the ME to the National Registry and from the National Registry to the SDLAs, resulting in an annual time savings of 32,303 hours (from 77,050 hours to 44,747 hours) and an annual cost savings of \$2.87 million (from \$6,857,450 to \$3,982,483), while decreasing the MEs paperwork and administrative burdens; (3) CLP/CDL applicants/holders will save time because they are no longer required to provide their MEC to the SDLAs as proof of medical certification. By electronically transmitting the MEC information and variance information (as defined in the **SUMMARY** section), FMCSA is creating a cost savings for drivers of \$1.05 million (1,940,000 MECs × \$0.54 postage plus one copy to SDLAs); (4) SDLAs will save 81,000 annual burden hours of administrative time recording MEC information for not having to attend to the driver above, resulting in \$1.46 million (81,000 annual burden hours × \$18.00 per hour) in cost savings. As a result, this final rule will generate a maximum \$10.16 million in overall annual cost savings. This estimate is the greatest possible amount, and includes the assumption that all intrastate drivers who can take

advantage of using MEs on the National Registry will.

The Agency believes that the fraud prevention in electronic transmission of MEC and medical variance information will continue to improve safety on public roads. Currently, there is potential for fraud, as drivers have the opportunity to forge or alter the MEC or medical variance information. More frequent reporting of CMV driver medical examination results to FMCSA by the MEs will allow the information to be promptly transmitted to the SDLAs for posting on the CDLIS driver record for CLP/CDL applicants/holders. As a result, up-to-date and accurate information concerning the medical certification status of these drivers will be available to State and Federal enforcement personnel, SDLAs, employers, drivers, and others who rely on this information to determine whether a driver is in compliance with the applicable physical qualification standards.

Lastly, FMCSA believes that use of the revised MER Form, MCSA–5875, will assist MEs in accurately determining whether CMV drivers meet the physical qualification standards contained in 49 CFR 391.41(b). The MER Form, MCSA–5875, has been streamlined for efficiency and contains evaluation tools that more precisely align with the qualification standards and the Agency's advisory criteria, and the revised MER Form presents those tools using a systematic physical examination approach similar to standards of clinical practice. When combined with the expected improvement in ME qualifications and performance under the National Registry program, the new MER Form will help ensure that the physical condition of CMV drivers is adequate to enable them to safely operate a CMV. The National Registry has only recently reached its compliance date; therefore, FMCSA does not have sufficient data at this time to quantify the expected safety benefits from adoption of the revised MER Form, MCSA–5875.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), the final rule is not expected to have a significant economic impact on a substantial number of small entities. Consequently, I certify that the proposed action will not have a significant economic impact on a substantial number of small entities.

The NPRM for this rule contained a detailed Initial Regulatory Flexibility Analysis which described the reasons for this action and its objective. The 39,160⁸ MEs who are currently certified and will be impacted by this rule are considered to be small business entities. However, the changes to the requirements on those MEs are small and should not have any negative economic impact on them. The changes to the required medical forms (CMV Driver Medical Examination Results Form, MCSA–5850, MER Form, MCSA–5875 and the MEC, Form MCSA–5876) are not expected to increase the burden on any ME, nor is the requirement that the CMV driver medical examination results be submitted by midnight (local time) of the next calendar day following the exam.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding the effects of this final rule. While the Agency believes that the rule will adversely affect few, if any, small businesses, organizations, or governmental jurisdictions, any questions concerning its provisions or options for compliance should be directed to, the FMCSA personnel listed in the **FOR FURTHER INFORMATION CONTACT** section of the final rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by

⁷ OMB Control Number 2126–0011 Supporting Statement: Commercial Driver Licensing and Testing Standards, approved 1/12/2015.

⁸ 39,160 MEs certified and listed on the National Registry as of January 5, 2015.

employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

D. Unfunded Mandates Reform Act of 1995

This final rule will impose costs that do not exceed the threshold nor impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$151 million (which is the value of \$100 million in 2012 after adjusting for inflation) or more in any 1 year.

E. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 13132 if it has "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." FMCSA has determined that this final rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

F. E.O. 12988 (Civil Justice Reform)

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

G. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing "economically significant" rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

H. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

I. Privacy Impact Assessment

FMCSA conducted a PIA of this rule as required by section 522(a)(5) of division H of the FY 2005 Omnibus Appropriations Act, Public Law 108-447, 118 Stat. 3268 (Dec. 8, 2004). The assessment considered impacts of the final rule on the privacy of information in an identifiable form and related matters. The final rule would impact the handling of PII. FMCSA has evaluated the risks and effects the rulemaking might have on collecting, storing, and sharing PII and has evaluated protections and alternative information handling processes in developing the final rule in order to mitigate potential privacy risks. The supporting PIA, available for review in the docket, gives a full and complete explanation of FMCSA practices for protecting PII in general and specifically in relation to this final rule.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program. FMCSA and the Department will be publishing, with request for comment, a revised system of records notice that will cover the collections of information that are affected by this final rule and covered by the Privacy Act.

J. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

K. Paperwork Reduction Act

This final rule contains the following new IC requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), FMCSA submitted the information requirements associated with the proposal to the OMB for its review. The Medical Qualification Requirements Supporting Statement, OMB control number 2126-0006 has been revised primarily due to the Agency's promulgation of this final rule. However, it has also been revised to provide new and updated data to the currently approved IC that is not a result of this final rule. As a result of this

update which includes several IC program changes such as the inclusion of a time burden for the driver to complete the health history section of the MER, a correction to the calculation for the National Registry regarding the time for entering and submitting MCSA-5850s, and the Agency's decision to grant hearing and seizure exemptions, there is an increase from the current approved annual paperwork burden hours of 503,000 hours (2,130,702 hours to 2,633,702). As a result of this final rule, the annual burden hours will remain the same during the first 3 years of implementation of the final rule but will decrease by 283,998 hours (2,633,702 hours to 2,349,704 hours) during the 4th and subsequent years after the compliance date. Therefore, this rule has a decrease in annual paperwork burden hours of 364,998 hours (81,000 + 283,998) as detailed in OMB control number 2126-0011 Commercial Driver Licensing and Test Standards and 2126-0006 Medical Qualification Requirements Supporting Statements in the docket.

As discussed in the National Registry final rule (77 FR 24104; April 21, 2012), MEs have started to electronically submit MEC information to the National Registry on a monthly basis. The Medical Examiner's Certification Integration NPRM proposed that the information be submitted by the ME by close of business the day the examination is conducted, as opposed to submitting monthly. The final rule slightly relaxes that standard by requiring MEs to report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The final rule requires FMCSA to electronically transmit driver identification, examination results, and restriction information for CLP/CDL applicants/holders, from the National Registry system to the SDLAs, providing more accurate and timely delivery of MEC information to update CDLIS driver records and for safety enforcement purposes. In addition, the final rule requires FMCSA to electronically transmit medical variance information for all CMV drivers electronically to the SDLAs.

Close tracking and monitoring of certification activities and medical results are crucial to reducing fraudulent efforts of a subset of CDL applicants. Some CDL drivers avoid following the proper guidelines to

become medically qualified, posing safety risks to the public.

While the NPRM proposed to send MEC information to the SDLAs only for CLP/CDL applicants/holders who are required to be medically qualified to operate in interstate commerce, the final rule has been expanded to include MEC information from examinations performed in accordance with the FMCSRs (49 CFR 391.41- 391.49), as well as allowing (but not requiring) to include those performed in accordance with applicable State standards. The National Registry final rule requires certified MEs to report to FMCSA the results of each medical examination of CMV drivers who are required to be medically qualified to operate in interstate commerce. If intrastate CMV drivers are subject to differing but compatible State regulations, the Agency anticipates that these drivers likely will use certified MEs on the National Registry for their medical qualification examinations. FMCSA recognizes that using the entire intrastate CMV driver population may be a high estimation, but we have used this conservatively high burden estimation since the Agency doesn't have an exact number, and there is nothing to preclude intrastate CMV drivers from being examined by a certified ME listed on the National Registry.

2126-0006 Medical Qualification Requirements

This IC is currently due to expire on July 31, 2015. On December 16, 2014, FMCSA published a **Federal Register** notice (79 FR 74804) requesting public

comment to revisions made to this IC. The comment period closed on February 17, 2015. The publication of this IC as part of the Medical Examiner's Certification Integration final rule serves as a withdrawal of the notice for comment and replaces the previous ICR. This revision is primarily due to the Agency's promulgation of this final rule. However, as discussed above, this IC is also being revised to provide new and updated data to the currently approved IC and replaces the **Federal Register** notice that was previously published for comment. The principal purpose of this final rule is to modify the requirements adopted in two previous rules so that (1) the driver identification, examination results, and restriction information for CLP/CDL applicants/holders is electronically transmitted to the FMCSA by midnight (local time) of the next calendar day after the examination by a certified ME listed on the National Registry and (2) this information is then electronically transmitted to the SDLA for entry into the appropriate driver record within one business day of receipt from FMCSA. There are no additional burden hours and annual costs to respondents imposed by this final rule. Implementation of this final rule will result in time and cost savings to employers, however, because they will no longer be required to verify the ME's National Registry number for CLP/CDL driver examinations. Only certified MEs listed on the National Registry will be able to forward driver identification, examination results, and restriction information to the National Registry. MEs will no longer be required to complete and furnish a copy of the MEC

to the driver examined when the driver is a CLP/CDL applicant/holder because this information will be electronically transmitted to the SDLA. The CLP/CDL applicants/holders will no longer be required to provide the SDLA with their MEC as proof of medical certification, and the SDLA will no longer be required to manually input the driver's MEC information.

On the effective date of this final rule, MEs must notify FMCSA if they have not performed any driver physical examinations during the previous month, and States must update the medical status to "not certified" when the medical certification is voided by FMCSA. In addition, six months after the effective date of this final rule, MEs must use the new MER Form, MCSA-5875 and the prescribed Form MCSA-5876 for the MEC.

As discussed above, as a result of an update including several IC program changes not related to this final rule, there is an increase in the annual paperwork burden hours from the currently approved IC of 503,000 hours (2,130,702 hours to 2,633,702) during the first 3 years of the final rule after the compliance date. The IC activities imposed on the MEs, drivers, and motor carriers over the first 3 years of implementing this final rule will remain unchanged. This provides time for those States that need to pass legislation and for all States to make the necessary system upgrades prior to the effective date for updating the CDLIS driver's record. The table below shows the annual burden hours for the IC activities for the first three years.

ANNUAL BURDEN HOURS FOR FIRST 3 YEARS

IC Activities for MEs, drivers, and motor carriers	Annual burden hours for the IC activities in first 3 years
Physical Qualification Standards: Medical Examination Report Form and Medical Examiner's Certificate	2,080,350
Resolution of Medical Conflict	11
Diabetes Exemption Program	2,219
Vision Exemption Program	2,216
Hearing Exemptions	49
Seizure Exemptions	96
SPE	2,661
Medical Examiner Registration	5,000
Medical Examiner Test Results (upload)	1,667
Reporting CMV Driver Medical Examination Results and filing and providing MEC	231,150
Providing Medical Examination Report Copies to FMCSA	83
Verification of National Registry Number	308,200
Total	2,633,702

Three years after the effective date of this final rule the following will be required: (1) MEs must increase the

frequency of submission of CMV driver medical examination results via Form, MCSA-5850, from once a month to as

frequent as they conduct exams. They are required to submit the results of all CMV driver medical examinations

conducted by midnight (local time) of the next calendar day following the exam; (2) FMCSA must electronically transmit driver identification, examination results, and restriction information from the National Registry system to the SDLAs for CLP/CDL applicants/holders; (3) FMCSA will electronically transmit medical variance information for all CMV drivers to the SDLAs; and (4) States must post the medical variance information provided by FMCSA, including the dates of issuance and expiration, to the CDLIS driver record within 1 business day of receipt for CLP/CDL applicants/holders.

These requirements do not impose any additional time or cost burdens on the MEs or their staff, drivers, or SDLAs. MEs will no longer be required to complete and furnish a written copy of the MEC to the driver examined when the driver is a CLP/CDL holder, because this information will be electronically transmitted to the SDLA. This provides a time savings of 32,303 hours and a cost savings of \$2,874,967/year. Employers will no longer be required to verify the ME's national registry number for CLP/CDL applicants/holders examinations, because only certified MEs listed on the National Registry will

be able to forward MEC information to the National Registry. This provides a time savings of 251,695 hours and a cost savings of \$4,782,205. Therefore, as a result of this final rule, the annual burden hours during the 4th and subsequent years after the compliance date of the rule have decreased by 283,998 hours (2,633,702 hours to 2,349,704 hours) and the annual costs have decreased by \$7,657,172 (\$163,850,187 to \$156,193,015). The table below shows the annual burden hours for the IC activities for the 4th and subsequent years following the effective date of this final rule.

ANNUAL BURDEN HOURS FOR 4TH AND SUBSEQUENT YEARS

IC Activities for MEs, drivers, and motor carriers	Annual burden hours for the IC activities in 4th year and subsequent years
FMCSA Physical Qualification Standards: Medical Examination Report Form and Medical Examiner's Certificate	2,048,047
Resolution of Medical Conflict	11
Diabetes Exemption Program	2,219
Vision Exemption Program	2,216
Hearing Exemptions	49
Seizure Exemptions	96
SPE	2,661
Medical Examiner Registration	5,000
Medical Examiner Test Results (upload)	1,667
Reporting CMV Driver Medical Examination Results and filing and providing MEC	231,150
Providing Medical Examination Report Copies to FMCSA	83
Verification of National Registry Number	56,505
Total	2,349,704

2126-0011 Commercial Driver Licensing and Test Standards. The renewal of this IC was approved by OMB on January 12, 2015. This IC supports the DOT Strategic Goal of Safety by requiring that CLP/CDL applicants/holders driving CMVs subject to part 391 to be properly licensed according to all applicable Federal requirements. The information being collected ensures that CLP/CDL applicants/holders are qualified to hold a CLP/CDL to operate CMVs, and that States are administering their CDL programs in compliance with the Federal requirements.

The rule requires the MEC and medical variance information for CLP/CDL applicants/holders to be transmitted electronically by FMCSA to the SDLA and posted to the CLP/CDL holder's CDLIS driver record. This eliminates the need for the driver to carry a paper copy of the MEC and to physically provide a copy to his/her SDLA. Therefore, there will be no change in the total annual burden hours during the first 3 years. However, during these 3 years there will be a one-time

cost that each State and the District of Columbia will need to expend to make updates to their systems to accommodate the development of the capability to electronically receive and post medical certification and medical variance information from FMCSA and to the CDLIS driver record. While the information technology necessary to carry out these transactions is still in the early development stage, FMCSA estimates that the cost elements to implement these new requirements will not be greater than the estimated cost to implement the posting of the MEC and medical variance information manually to the driver's record. The FMCSA believes that additional costs to the SDLAs associated with this IC to be a one-time total of approximately \$9,965,163 over the first 3 years or an annual cost of \$3,321,721. The breakdown of the \$9,965,163 by type of work activity by dollar totals for first 3 years is as follows:

Information technology	Total state costs ⁹
Input and Inquiry Screens	\$6,146,560
Expanded Database	1,563,932
Systems and User Acceptance Testing	1,664,850
AAMVA Testing	589,821
Total One-Time Costs ...	9,965,163

The FMCSA believes that additional costs to AAMVA to develop the communications link between CDLIS and the National Registry for this IC to be a one-time total of approximately \$1,000,000 over the first 3 years or an annual cost of \$333,333.

Starting in the 4th and subsequent years, there will be a decrease in total annual burden hours due to the implementation of the new program change. With medical certification and medical variance information being sent electronically to the SDLA by FMCSA to

⁹ These costs are based on a sample of nine States conducted by an FMCSA contractor, representing three tiers of size and different regions of the country.

post to the CDLIS driver record, the annual burden hours for the SDLA to manually post the medical certification and medical variance information to the CDLIS driver record will be reduced from 81,000 hours to 0 hours based on the medical certification and variance information being electronically sent through the National Registry to the

SDLA by FMCSA and electronically posted to the CDLIS driver record. The annual cost of interstate CDL holders providing the SDLA with an original or copy of the MEC will be eliminated. This is an annual cost savings of \$1,047,600. The following table summarizes the annual IC burden hours for current and proposed IC activities

for the first 3 years and the subsequent years. As discussed above, the currently approved total annual burden of 3,651,867 hours for the first 3 years remains unchanged. The decrease in proposed total annual burden of 81,000 hours in subsequent years is due to the program changes from implementing the new requirement.

Current and proposed IC activities for States and CLP/CDL holders	Currently approved annual burden hours	Proposed annual burden hours for the IC activities in first 3 years	Proposed annual burden hours for IC activities in 4th and subsequent years
State recording of medical examiner's certification and medical variance information	81,000	81,000	0
State recording of the self-certification of CMV operation	4,544	4,544	4,544
State verification of the medical certification status of all interstate CLP/CDL holders	901	901	901
Driver notification of convictions/disqualifications to employer	730,000	730,000	730,000
Driver providing previous employment history to new employer	459,950	459,950	459,950
Annual State certification of compliance	1,632	1,632	1,632
States preparing for and participating in Annual Program Review	10,200	10,200	10,200
CDLIS/PDPS/State Record Keeping	335,668	335,668	335,668
Drivers completion of the CLP/CDL application	59,130	59,130	59,130
CDL Knowledge and Skills tests recordkeeping	95,813	95,813	95,813
Knowledge and skills test examiner certification	25,216	25,216	25,216
Driver completion of knowledge and skills test	1,847,813	1,847,813	1,847,813
Total Burden Hours	3,651,867	3,651,867	3,570,867

FMCSA analyzed this rule and determined that its implementation will decrease the annual burden hours for IC activities covered by OMB Control No. 2126-006, titled "Medical Qualification Requirements," and OMB Control No.

2126-0011, titled "Commercial Driver Licensing and Test Standards" during the 4th and subsequent years. The Table below captures the current and future paperwork burden hours associated with the two approved supporting

statements. A detailed analysis of each IC activity can be found in the Supporting Statements, which are in the public docket for this rulemaking.

CURRENT AND FUTURE INFORMATION COLLECTION BURDENS

OMB Approval No.	Currently approved annual burden hours	Proposed annual burden hours as a result of update, not a result of final rule	Proposed annual burden hours for IC activities in 1st 3 years	Proposed annual burden hours for IC activities in 4th and subsequent years
2126-0006	2,130,702	2,633,702	2,633,702	2,349,704
2126-0011	3,651,867	N/A	3,651,867	3,570,867
Totals	5,782,569	N/A	6,285,569	5,920,571

L. National Environmental Policy Act and Clean Air Act

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph (s)(7) and paragraph (t)(2). The Categorical Exclusion (CE) in paragraph (b) covers administrative or editorial changes; (s)(7) covers requirements for State-issued commercial license

documentation; and paragraph (t)(2) addresses regulations that assure States have the appropriate information systems and procedures concerning CDL qualifications. The requirements in this rule are covered by these two CEs and this action does not have any effect on the quality of the environment. The CE determination is available for inspection or copying in the Regulations.gov Web site listed under ADDRESSES. FMCSA also analyzed this 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. Approval of this action is

exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

M. E.O. 12898 Environmental Justice

FMCSA evaluated the environmental effects of this final rule in accordance with Executive Order 12898 and determined that there are no environmental justice issues associated with its provisions nor any collective environmental impact resulting from its promulgation. Environmental justice issues would be raised if there were "disproportionate" and "high and

adverse impact” on minority or low-income populations.

N. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

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

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

P. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

List of Subjects

49 CFR Part 383

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

49 CFR Part 384

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

49 CFR Part 391

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, FMCSA amends 49 CFR chapter III, to read as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, and 31502; secs. 214 and 215, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 4140, Pub. L. 109–59, 119 Stat. 1144, 1746; and 49 CFR 1.87.

■ 2. Amend § 383.71 by revising paragraphs (h)(1) and (3) to read as follows:

§ 383.71 Driver application and certification procedures.

* * * * *

(h) * * *

(1) *New CLP and CDL applicants.* (i) Before June 22, 2018, a new CLP or CDL applicant who certifies that he/she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of a medical examiner's certificate prepared by a medical examiner, as defined in 49 CFR 390.5, and the State will post a medical qualifications status of “certified” on the CDLIS driver record for the driver;

(ii) On or after June 22, 2018, a new CLP or CDL applicant who certifies that he/she will operate CMVs in non-excepted, interstate commerce must be medically examined and certified in accordance with 49 CFR 391.43 as medically qualified to operate a CMV by a medical examiner, as defined in 49 CFR 390.5. Upon receiving an electronic copy of the medical examiner's certificate from FMCSA, the State will post a medical qualifications status of “certified” on the CDLIS driver record for the driver;

* * * * *

(3) *Maintaining the medical certification status of “certified.”* (i) In order to maintain a medical certification status of “certified,” before June 22, 2018, a CLP or CDL holder who certifies that he/she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of each subsequently issued medical examiner's certificate;

(ii) In order to maintain a medical certification status of “certified,” on or

after June 22, 2018, a CLP or CDL holder who certifies that he/she will operate CMVs in non-excepted, interstate commerce must continue to be medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in 49 CFR 390.5. FMCSA will provide the State with an electronic copy of the medical examiner's certificate information for all subsequent medical examinations in which the driver has been deemed qualified.

■ 3. Amend § 383.73 by revising paragraphs (a)(2)(vii), (b)(5), (o)(1), (o)(2), (o)(3) and (o)(4) to read as follows:

§ 383.73 State procedures.

(a) * * *

(2) * * *

(vii)(A) Before June 22, 2018, for drivers who certified their type of driving according to § 383.71(b)(1)(ii)(A) (non-excepted interstate) and, if the CLP applicant submits a current medical examiner's certificate, date-stamp the medical examiner's certificate, and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(B) On or after June 22, 2018, for drivers who certified their type of driving according to § 383.71(b)(1)(ii)(A) (non-excepted interstate) and, if FMCSA provides current medical examiner's certificate information electronically, post all required information matching the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(b) * * *

(5)(i) Before June 22, 2018, for drivers who certified their type of driving according to § 383.71(b)(1)(ii)(A) (non-excepted interstate) and, if the CDL holder submits a current medical examiner's certificate, date-stamp the medical examiner's certificate and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(ii) On or after June 22, 2018, for drivers who certified their type of driving according to § 383.71(b)(1)(ii)(A) (non-excepted interstate) and, if FMCSA provides current medical examiner's certificate information electronically, post all required information matching the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

* * * * *

(o) *Medical recordkeeping—(1)(i) Status of CLP or CDL holder.* Before

June 22, 2018, for each operator of a commercial motor vehicle required to have a CLP or CDL, the current licensing State must:

(A) Post the driver's self-certification of type of driving under § 383.71(b)(1)(ii) to the CDLIS driver record;

(B) Post the information from the medical examiner's certificate within 10 calendar days to the CDLIS driver record, including:

- (1) Medical examiner's name;
- (2) Medical examiner's telephone number;
- (3) Date of medical examiner's certificate issuance;
- (4) Medical examiner's license number and the State that issued it;
- (5) Medical examiner's National Registry identification number;
- (6) The indicator of medical certification status, *i.e.*, "certified" or "not-certified";
- (7) Expiration date of the medical examiner's certificate;
- (8) Existence of any medical variance on the medical examiner's certificate, such as an exemption, SPE certification, or grandfather provisions;
- (9) Any restrictions (*e.g.*, corrective lenses, hearing aid, required to have possession of an exemption letter or SPE certificate while on-duty, etc.); and
- (10) Date the medical examiner's certificate information was posted to the CDLIS driver record; and

(C) Post the medical variance information within 10 calendar days to the CDLIS driver record, including:

- (1) Date of medical variance issuance; and
- (2) Expiration date of medical variance;

(D) Retain the original or a copy of the medical examiner's certificate of any driver required to provide documentation of physical qualification for 3 years beyond the date the certificate was issued.

(ii) *Status of CLP or CDL holder.* On or after June 22, 2018, for each operator of a commercial motor vehicle required to have a CLP or CDL, the current licensing State must:

(A) Post the driver's self-certification of type of driving under § 383.71(b)(1)(ii) to the CDLIS driver record;

(B) Post the information from the medical examiner's certificate received from FMCSA to the CDLIS driver record, including:

- (1) Medical examiner's name;
- (2) Medical examiner's telephone number;
- (3) Date of medical examiner's certificate issuance;
- (4) Medical examiner's license number and the State that issued it;

(5) Medical examiner's National Registry identification number;

(6) The indicator of medical certification status, *i.e.*, "certified" or "not-certified";

(7) Expiration date of the medical examiner's certificate;

(8) Existence of any medical variance on the medical examiner's certificate, such as an exemption, Skill Performance Evaluation (SPE) certification, or grandfather provisions;

(9) Any restrictions (*e.g.*, corrective lenses, hearing aid, required to have possession of an exemption letter or SPE certificate while on-duty, etc.); and

(10) Date the medical examiner's certificate information was posted to the CDLIS driver record;

(C) Post the medical variance information received from FMCSA within 1 business day to the CDLIS driver record, including:

- (1) Date of medical variance issuance; and
- (2) Expiration date of medical variance;

(D) Retain the electronic record of the medical examiner's certificate information for any driver required to have documentation of physical qualification for 3 years beyond the date the certificate was issued.

(2) *Status update.* (i) Before June 22, 2018, the State must, within 10 calendar days of the driver's medical examiner's certificate or medical variance expiring, the medical variance being rescinded or the medical examiner's certificate being voided by FMCSA, update the medical certification status of that driver as "not certified."

(ii) Beginning June 22, 2018, the State must, within 10 calendar days of the driver's medical examiner's certificate or medical variance expiring, the medical examiner's certificate becoming invalid, the medical variance being rescinded or the medical examiner's certificate being voided by FMCSA, update the medical certification status of that driver as "not certified."

(3) *Variance update.* (i) Before June 22, 2018, within 10 calendar days of receiving information from FMCSA regarding issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(ii) Beginning June 22, 2018, within 1 business day of electronically receiving medical variance information from FMCSA regarding the issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(4) *Downgrade.* (i) If a driver's medical certification or medical variance expires, or FMCSA notifies the State that a medical certification was invalidated or voided or a medical variance was removed or rescinded, the State must:

(A)(1) Before June 22, 2018 notify the CLP or CDL holder of his/her CLP or CDL "not-certified" medical certification status and that the CMV privileges will be removed from the CLP or CDL unless the driver submits a current medical examiner's certificate and/or medical variance, or changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State);

(2) On or after June 22, 2018 notify the CLP or CDL holder of his/her CLP or CDL "not-certified" medical certification status and that the CMV privileges will be removed from the CLP or CDL unless the driver has been medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in 49 CFR 390.5, or the driver changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State).

(B) Initiate established State procedures for downgrading the CLP or CDL. The CLP or CDL downgrade must be completed and recorded within 60 days of the driver's medical certification status becoming "not-certified" to operate a CMV.

(ii)(A) Before June 22, 2018, if a driver fails to provide the State with the certification contained in § 383.71(b)(1), or a current medical examiner's certificate if the driver self-certifies according to § 383.71(b)(1)(i) that he/she is operating in non-excepted interstate commerce as required by § 383.71(h), the State must mark that CDLIS driver record as "not-certified" and initiate a CLP or CDL downgrade following State procedures in accordance with paragraph (o)(4)(i)(B) of this section.

(B) On or after June 22, 2018 if a driver fails to provide the State with the certification contained in § 383.71(b)(1), or, if the driver self-certifies according to § 383.71(b)(1)(i) that he/she is operating in non-excepted interstate commerce as required by § 383.71(h) and the information required by paragraph (o)(2)(ii) of this section is not received and posted, the State must mark that CDLIS driver record as "not-certified" and initiate a CLP or CDL downgrade following State procedures in accordance with paragraph (o)(4)(i)(B) of this section.

* * * * *

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

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

Authority: 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215, Pub. L. 106–159, 113 Stat. 1748, 1753, 1767; and 49 CFR 1.87.

■ 5. Revise § 384.234 to read as follows:

§ 384.234 Driver medical certification recordkeeping.

The State must meet the medical certification recordkeeping requirements of § 383.73(a)(2)(vii), (b)(5), (c)(8), (d)(8), (e)(6) and (o).

■ 6. Amend § 384.301 by adding a new paragraph (i) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(i) A State must come into substantial compliance with the requirements of subpart B of this part and part 383 of this chapter in effect as of June 22, 2015 as soon as practical, but, unless otherwise specifically provided in this part, not later than June 22, 2018.

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

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

Authority: 49 U.S.C. 504, 508, 31133, 31136, and 31502; sec. 4007(b), Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106–159, 113 Stat. 1748, 1767; and 49 CFR 1.87.

■ 8. Amend § 391.23 by revising paragraphs (m)(2) and (3) 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, 2015, 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:

(A) The type of operation the driver self-certified that he or she will perform in accordance with § 383.71(b)(1)(ii) of this chapter.

(B)(1) Beginning on May 21, 2014, and ending on June 22, 2015, that the driver was certified by a medical examiner listed on the National Registry of Certified Medical Examiners as of the date of medical examiner's certificate issuance.

(2) Beginning on June 22, 2015, if the driver has certified under paragraph (m)(2)(i)(A) of this section that he or she expects to operate in interstate commerce, that the driver has a valid medical examiner's certificate and any required medical variances.

(3) Beginning on July 8, 2015, if the driver has a commercial learner's permit and has certified under paragraph (m)(2)(i)(A) of this section that he or she expects to operate in interstate commerce that the driver has a valid medical examiner's certificate and any required medical variances.

(C) *Exception.* Beginning on January 30, 2015 and until June 22, 2018, if the driver provided the motor carrier with a copy of the current medical examiner's certificate that was submitted to the State in accordance with § 383.73(a)(5) of this chapter, the motor carrier may use a copy of that medical examiner's certificate as proof of the driver's medical certification for up to 15 days after the date it was issued.

(ii) Until January 30, 2015, 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) *Exception.* For drivers required to have a commercial driver's license under part 383 of this chapter:

(i) Beginning July 8, 2015, 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:

(A) The type of operation the driver self-certified that he or she will perform in accordance with § 383.71(a)(1)(ii) and (g) of this chapter.

(B) That the driver was certified by a medical examiner listed on the National Registry of Certified Medical Examiners as of the date of medical examiner's certificate issuance.

* * * * *

■ 9. Amend § 391.41 by revising paragraph (a)(2)(i) to read as follows:

§ 391.41 Physical qualifications for drivers.

(a) * * *

(2) *CDL exception.* (i)(A) Beginning on January 30, 2015 and ending on the day before June 22, 2018, 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 49 CFR 383.71(h) 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.

(B) Beginning on June 22, 2018, a driver required to have a commercial driver's license or a commercial learner's permit under 49 CFR part 383, and who has a current medical examiner's certificate documenting that he or she meets the physical qualification requirements of this part, is no longer needs to carry on his or her person the medical examiner's certificate specified at § 391.43(h).

* * * * *

■ 10. Amend § 391.43 by revising paragraphs (f), (g)(2), (g)(3) and (h), and adding paragraph (g)(4) and (g)(5), to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(f) The medical examination shall be performed, and its results shall be recorded on the Medical Examination Report set out below:

BILLING CODE 4910-EX-P

Form MCSA-5875 (Revised: 12/08/2014)

OMB No. 2126-0006 Expiration Date:

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0006. Public reporting burden for this collection of information is estimated to average approximately 25 minutes per response, including the time for reviewing instructions, gathering the data needed, and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RR-A, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.



U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

Medical Examination Report Form
(for Commercial Driver Medical Certification)

PRIVACY ACT STATEMENT: This statement is provided pursuant to the Privacy Act of 1974, 5 USC § 552a.

AUTHORITY: Title 49, United States Code (USC), 49 USC 31133(a)(8) and 31149(a)(1)(E).

PURPOSE: To record results of a driver's physical examination, to determine qualification to operate a commercial motor vehicle (CMV), and to promote driver health in interstate commerce according to the requirements in 49 CFR 391.41-49. Providing this information is mandatory. If this information is not provided, the medical examiner will not be able to determine qualification to operate a CMV in interstate commerce according to the requirements in 49 CFR 391.41-49. To record results of a driver's physical examination and to determine qualification to operate a CMV in intrastate commerce when the driver is required by a State to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners in accordance with the provisions of 49 CFR 391.41-49 and any variances from the physical qualification standards adopted by such State.

Medical examiners are required to complete the Medical Examination Report Form for every driver physical examination performed in accordance with 49 CFR 391.41. Each original (paper or electronic) completed Medical Examination Report Form must be retained on file at the office of the medical examiner for at least 3 years from the date of examination. The medical examiner must make all records and information in these files available to an authorized representative of FMCSA or an authorized Federal, State, or local enforcement agency representative, within 48 hours after the request is made (49 CFR 391.43(f)).

ROUTINE USES: The information is used for the purpose set forth above and may be forwarded to Federal, State, or local law enforcement agencies for their use. Medical Examination Report Forms collected by FMCSA will be stored in FMCSA's automated National Registry of Certified Medical Examiners System and will be used to monitor the performance of medical examiners listed on the National Registry.

In addition to those disclosures permitted under 5 USC 552a(b) of the Privacy Act of 1974, additional disclosures may be made in accordance with the U.S. Department of Transportation (DOT) Prefatory Statement of General Routine Uses published in the Federal Register on December 29, 2010 (75 FR 82132), under "Prefatory Statement of General Routine Uses" (available at <http://www.dot.gov/privacy/privacyactnotices>).

ACKNOWLEDGMENT: I understand the provisions of the Privacy Act of 1974 as related to me through the above-mentioned statement.

CMV Driver Signature: _____ Date: _____

MEDICAL RECORD #

(or sticker)

SECTION 1. Driver Information (to be filled out by the driver)

PERSONAL INFORMATION

Last Name: _____ First Name: _____ Middle Initial: _____ Date of Birth: _____ Age: _____
 Address: _____ City: _____ State/Province: _____ Zip Code: _____
 Driver's License Number: _____ Issuing State/Province: _____ Phone: _____ Gender: M F
 CLP/CDL Applicant/Holder*? Yes No Driver ID Verified By**:
 Has your USDOT/FMCSA medical certificate ever been denied or issued for less than 2 years? Yes No Not Sure

*CLP/CDL Applicant/Holder Yes/No: See instructions for definitions.

**Driver ID Verified By: Record what type of photo ID was used to verify the identity of the driver, e.g., CDL, driver's license, passport.

DRIVER HEALTH HISTORY

Have you ever had surgery? If "yes," please list and explain below. Yes No Not Sure

Are you currently taking medications (prescription, over-the-counter, herbal remedies, diet supplements)? If "yes," please describe below. Yes No Not Sure

(Attach additional sheets if necessary)

Form MCSA-5875 (Revised: 12/08/2014)

OMB No. 2126-0006 Expiration Date:

Last Name: _____ First Name: _____ Middle Initial: _____ DOB: _____ Exam Date: _____

DRIVER HEALTH HISTORY (continued)

Do you have or have your ever had:	Not				Not		
	Yes	No	Sure		Yes	No	Sure
1. Head/brain injuries or illnesses (e.g., concussion)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	16. Dizziness, headaches, numbness, tingling, or memory loss	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Seizures, epilepsy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	17. Unexplained weight loss	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Eye problems (except glasses or contacts)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	18. Stroke, mini-stroke (TIA), paralysis, or weakness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Ear and/or hearing problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	19. Missing or limited use of arm, hand, finger, leg, foot, toe	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Heart disease, heart attack, bypass, or other heart problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	20. Neck or back problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Pacemaker, stents, implantable devices, or other heart procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	21. Bone, muscle, joint, or nerve problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. High blood pressure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	22. Blood clots or bleeding problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8. High cholesterol	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	23. Cancer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
9. Chronic (long-term) cough, shortness of breath, or other breathing problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	24. Chronic (long-term) infection or other chronic diseases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Lung disease (e.g., asthma)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	25. Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
11. Kidney problems, kidney stones, or pain/problems with urination	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	26. Have you ever had a sleep test (e.g., sleep apnea)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
12. Stomach, liver, or digestive problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	27. Have you ever spent a night in the hospital?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
13. Diabetes or blood sugar problems Insulin used	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	28. Have you ever had a broken bone?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
14. Anxiety, depression, nervousness, other mental health problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	29. Have you ever used or do you now use tobacco?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15. Fainting or passing out	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	30. Do you currently drink alcohol?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
				31. Have you used an illegal substance within the past two years?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
				32. Have you ever failed a drug test or been dependent on an illegal substance?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other health condition(s) not described above: Yes No Not Sure

Did you answer "yes" to any of questions 1-32? If so, please comment further on those health conditions below. Yes No Not Sure

(Attach additional sheets if necessary)

CMV DRIVER SIGNATURE

I certify that the above information is accurate and complete. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate, that submission of fraudulent or intentionally false information is a violation of 49 CFR 390.35, and that submission of fraudulent or intentionally false information may subject me to civil or criminal penalties under 49 CFR 390.37 and 49 CFR 386 Appendices A and B.

CMV Driver Signature: _____ Date: _____

SECTION 2. Examination Report (to be filled out by the medical examiner)

DRIVER HEALTH HISTORY REVIEW

Review and discuss pertinent driver answers and any available medical records. Comment on the driver's responses to the "health history" questions that may affect the driver's safe operation of a commercial motor vehicle (CMV).

(Attach additional sheets if necessary)

Form MCSA-5875 (Revised: 12/08/2014)

OMB No. 2126-0006 Expiration Date:

Last Name: _____ First Name: _____ Middle Initial: _____ DOB: _____ Exam Date: _____

TESTING

Pulse rate: _____ Pulse rhythm regular: Yes No Height: ___ feet ___ inches Weight: ___ pounds

Blood Pressure Systolic _____ Diastolic _____ **Urinalysis** Sp. Gr. _____ Protein _____ Blood _____ Sugar _____

Sitting _____ Urinalysis is required. Numerical readings must be recorded.

Other testing if indicated _____ Protein, blood, or sugar in the urine may be an indication for further testing to rule out any underlying medical problem.

Vision Standard is at least 20/40 acuity (Snellen) in each eye with or without correction. At least 70° field of vision in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

Acuity Uncorrected Corrected Horizontal Field of Vision
 Right Eye: 20/____ 20/____ Right Eye: ____ degrees
 Left Eye: 20/____ 20/____ Left Eye: ____ degrees
 Both Eyes: 20/____ 20/____

Applicant can recognize and distinguish among traffic control signals and devices showing red, green, and amber colors Yes No
 Monocular vision Yes No
 Referred to ophthalmologist or optometrist? Yes No
 Received documentation from ophthalmologist or optometrist? Yes No

Hearing Standard: Must first perceive whispered voice at not less than 5 feet (with or without hearing aid) OR average hearing loss in better ear at less than 40 dB.

Check if hearing aid used for test: Right Ear Left Ear Neither
Whisper Test Results Right Ear _____ Left Ear _____
 Record distance (in feet) from driver at which a forced whispered voice can first be heard _____
OR
Audiometric Test Results
 Right Ear _____ Left Ear _____
 500 Hz 1000 Hz 2000 Hz 500 Hz 1000 Hz 2000 Hz
 Average (right): _____ Average (left): _____

PHYSICAL EXAMINATION

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen, or is readily amenable to treatment. Even if a condition does not disqualify a driver, the Medical Examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible, particularly if neglecting the condition could result in a more serious illness that might affect driving.

Check the body systems for abnormalities.

Body System	Normal	Abnormal	Body System	Normal	Abnormal
1. General	<input type="radio"/>	<input type="radio"/>	8. Abdomen	<input type="radio"/>	<input type="radio"/>
2. Skin	<input type="radio"/>	<input type="radio"/>	9. Genito-urinary system including hernias	<input type="radio"/>	<input type="radio"/>
3. Eyes	<input type="radio"/>	<input type="radio"/>	10. Back/Spine	<input type="radio"/>	<input type="radio"/>
4. Ears	<input type="radio"/>	<input type="radio"/>	11. Extremities/joints	<input type="radio"/>	<input type="radio"/>
5. Mouth/throat	<input type="radio"/>	<input type="radio"/>	12. Neurological system including reflexes	<input type="radio"/>	<input type="radio"/>
6. Cardiovascular	<input type="radio"/>	<input type="radio"/>	13. Gait	<input type="radio"/>	<input type="radio"/>
7. Lungs/chest	<input type="radio"/>	<input type="radio"/>	14. Vascular system	<input type="radio"/>	<input type="radio"/>

Discuss any abnormal answers in detail in the space below and indicate whether it would affect the driver's ability to operate a CMV. Enter applicable item number before each comment.

(Attach additional sheets if necessary)

Form MCSA-5875 (Revised: 12/08/2014)

OMB No. 2126-0006 Expiration Date:

Last Name: _____ First Name: _____ Middle Initial: _____ DOB: _____ Exam Date: _____

Please complete only one of the Medical Examiner Determination sections below:

MEDICAL EXAMINER DETERMINATION (Federal)

Use this section for examinations performed in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49):

- Does not meet standards (specify reason): _____
- Meets standards in 49 CFR 391.41; qualifies for 2-year certificate
- Meets standards, but periodic monitoring required (specify reason): _____
 - Driver qualified for: 3 months 6 months 1 year other: _____
 - Wearing corrective lenses Wearing hearing aid Accompanied by a waiver/exemption (specify type): _____
 - Accompanied by a Skill Performance Evaluation (SPE) certificate Qualified by operation of 49 CFR 391.64
 - Driving within an exempt intracity zone (see 49 CFR 391.62)
- Determination pending (specify reason): _____
 - Return to medical exam office for follow-up on (must be 45 days or less): _____
 - Medical Examination Report amended (specify reason): _____

(if amended) Medical Examiner Signature: _____ Date: _____
- Incomplete examination (specify reason): _____

If the driver meets the standards outlined in 49 CFR 391.41, then complete a Medical Examiner's Certificate as stated in 49 CFR 391.43(h), as appropriate.

I have performed this evaluation for certification. I have personally reviewed all available records and recorded information pertaining to this evaluation, and attest that to the best of my knowledge, I believe it to be true and correct.

Medical Examiner Signature: _____ Medical Examiner Name: _____

Address: _____ City: _____ State: _____ Zip Code: _____ Phone: _____ Date: _____

Examiner's State License, Certificate, or Registration Number: _____ Issuing State: _____

MD DO Physician Assistant Chiropractor Advanced Practice Nurse Other Practitioner

National Registry Number: _____ Medical Examiner's Certificate Expiration Date: _____

MEDICAL EXAMINER DETERMINATION (State)

Use this section for examinations performed in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations):

- Meets standards in 49 CFR 391.41 with any applicable State variances
- Meets standards, but periodic monitoring required (specify reason): _____
 - Driver qualified for: 3 months 6 months 1 year other: _____
 - Wearing corrective lenses Wearing hearing aid Accompanied by a waiver/exemption (specify type): _____
 - Accompanied by a Skill Performance Evaluation (SPE) certificate Grandfathered from State requirements

If the driver meets the standards outlined in 49 CFR 391.41, with applicable State variances, then complete a Medical Examiner's Certificate, as appropriate.

I have performed this evaluation for certification. I have personally reviewed all available records and recorded information pertaining to this evaluation, and attest that to the best of my knowledge, I believe it to be true and correct.

Medical Examiner Signature: _____ Medical Examiner Name: _____

Address: _____ City: _____ State: _____ Zip Code: _____ Phone: _____ Date: _____

Examiner's State License, Certificate, or Registration Number: _____ Issuing State: _____

MD DO Physician Assistant Chiropractor Advanced Practice Nurse Other Practitioner

National Registry Number: _____ Medical Examiner's Certificate Expiration Date: _____

Instructions for Completing the Medical Examination Report Form (MCSA-5875)

I. Step-By-Step Instructions

Driver:

Privacy Act Statement - Please read, sign and date the Statement acknowledging that you understand the provisions of the Privacy Act of 1974 as written.

Section 1: Driver information

- **Personal Information:** Please complete this section using your name as written on your driver's license, your current address and phone number, your date of birth, age, gender, driver's license number and issuing state.
 - **CDL/CLP Applicant/Holder:** Check "yes" if you are a commercial driver's license or commercial learner's permit holder, or are applying for a CDL or CLP. Commercial driver's license (CDL) means a license issued by a State or the District of Columbia which authorizes the individual to operate a class of a commercial motor vehicle (CMV). A CMV that requires a CDL is one that: (1) has a gross combination weight rating or gross combination weight of 26,001 pounds or more inclusive of a towed unit with a gross vehicle weight rating (GVWR) or gross vehicle weight (GVW) of more than 10,000 pounds; or (2) has a GVWR or GVW of 26,001 pounds or more; or (3) is designed to transport 16 or more passengers, including the driver; or (4) is used to transport either hazardous materials requiring hazardous materials placards on the vehicle or any quantity of a select agent or toxin.
 - **Driver ID Verified By:** The Medical Examiner/staff completes this item and notes the type of photo ID used to verify the driver's identity such as, commercial driver's license, driver's license, or passport, etc.
 - **Question: Has your USDOT/FMCSA medical certificate ever been denied or issued for less than two years?** Please check the correct box "yes" or "no" and if you aren't sure check the "not sure" box.
- **Driver Health History:**
 - **Have you ever had surgery:** Please check "yes" if you have ever had surgery and provide a written explanation of the details (type of surgery, date of surgery, etc.)
 - **Are you currently taking medications (prescription, over-the-counter, herbal remedies, diet supplements):** Please check "yes" if you are taking any diet supplements, herbal remedies, or prescription or over the counter medications. In the box below the question, indicate the name of the medication and the dosage.
 - **#1-32:** Please complete this section by checking the "yes" box to indicate that you have, or have ever had, the health condition listed or the "No" box if you have not. Check the "not sure" box if you are unsure.
 - **Other Health Conditions not described above:** If you have, or have had, any other health conditions not listed in the section above, check "Yes" and in the box provided and list those condition(s).
 - **Any yes answers to questions #1-32 above:** If you have answered "yes" to any of the questions in the Driver Health History section above, please explain your answers further in the box below the question. For example, if you answered "yes" to question #5 regarding heart disease, heart attack, bypass, or other heart problem, indicate which type of heart condition. If you checked "yes" to question #23 regarding cancer, indicate the type of cancer. Please add any information that will be helpful to the Medical Examiner.
- **CMV Driver Signature and Date:** Please read the certification statement, sign and date it, indicating that the information you provided in Section 1 is accurate and complete.

Medical Examiner:**Section 2: Examination Report**

- **Driver Health History Review:** Review answers provided by the driver in the driver health history section and discuss any “yes” and “not sure” responses. In addition, be sure to compare the medication list to the health history responses ensuring that the medication list matches the medical conditions noted. Explore with the driver any answers that seem unclear. Record any information that the driver omitted. As the Medical Examiner conducting the driver's physical examination you are required to complete the entire medical examination even if you detect a medical condition that you consider disqualifying, such as deafness. Medical Examiners are expected to determine the driver's physical qualification for operating a commercial vehicle safely. Thus, if you find a disqualifying condition for which a driver may receive a Federal Motor Carrier Safety Administration medical exemption, please record that on the driver's Medical Examiner's Certificate, Form MCSA-5876, as well as on the Medical Examination Report Form, MCSA-5875.
- **Testing:**
 - **Pulse rate and rhythm, height, and weight:** record these as indicated on the form.
 - **Blood Pressure:** record the blood pressure (systolic and diastolic) of the driver being examined. A second reading is optional and should be recorded if found to be necessary.
 - **Urinalysis:** record the numerical readings for the specific gravity, protein, blood and sugar.
 - **Vision:** The current vision standard is provided on the form. When other than the Snellen chart is used, give test results in Snellen-comparable values. When recording distance vision, use 20 feet as normal. Record the vision acuity results and indicate if the driver can recognize and distinguish among traffic control signals and devices showing red, green, and amber colors; has monocular vision; has been referred to an ophthalmologist or optometrist; and if documentation has been received from an ophthalmologist or optometrist.
 - **Hearing:** The current hearing standard is provided on the form. Hearing can be tested using either a whisper test or audiometric test. Record the test results in the corresponding section for the test used.
- **Physical Examination:** Check the body systems for abnormalities and indicate normal or abnormal for each body system listed. Discuss any abnormal answers in detail in the space provided and indicate whether it would affect the driver's ability to safely operate a commercial motor vehicle.

In this next section, you will be completing either the Federal or State determination, not both.

- **Medical Examiner Determination (Federal):** Use this section for examinations performed in accordance with the FMCSRs (49 CFR 391.41-391.49). Complete the medical examiner determination section completely. When determining a driver's physical qualification, please note that English language proficiency (49 CFR part 391.11, General qualifications of drivers) is not factored into that determination.
 - **Does not meet standards:** Select this option when a driver is determined to be not qualified and provide an explanation of why the driver does not meet the standards in 49 CFR 391.41.
 - **Meets standards in 49 CFR 391.41; qualifies for 2-year certification:** Select this option when a driver is determined to be qualified and will be issued a 2-year Medical Examiner's Certificate.

Instructions MCSA-5875 (Revised: 02/18/2014)

- **Meets standards, but periodic monitoring is required:** Select this option when a driver is determined to be qualified but needs periodic monitoring and provide an explanation of why periodic monitoring is required. Select the corresponding time frame that the driver is qualified and if selecting other, specify the time frame.
 - **Determination that driver meets standards:** Select all categories that apply to the driver's certification (e.g., wearing corrective lenses, accompanied by a waiver/exemption, driving within an exempt intracity zone, etc.).
- **Determination pending:** Select this option when more information is needed to make a qualification decision and specify a date, prior to the 45 day expiration date, for the driver to return to the medical exam office for follow-up. This will allow for a delay of the qualification decision for up to 45 days. If the disposition of the pending examination is not updated via the National Registry before the 45 day expiration date, FMCSA will notify the examining medical examiner and the driver in writing that the examination is no longer valid and that the driver is required to be re-examined.
 - **MER amended:** A Medical Examination Report Form (MER), MCSA-5875, may only be amended while in determination pending status for situations where new information (e.g., test results, etc.) has been received or there has been a change in the driver's medical status since the initial examination, but prior to a final qualification determination. Select this option when a Medical Examination Report Form, MCSA-5875, is being amended; provide the reason for the amendment, sign and date. In addition, initial and date any changes made on the Medical Examination Report Form, MCSA-5875. A Medical Examination Report Form, MCSA-5875, cannot be amended after an examination has been in determination pending status for more than 45 days or after a final qualification determination has been made. The driver is required to obtain a new physical examination and a new Medical Examination Report Form, MCSA-5875, should be completed.
- **Incomplete examination:** Select this when the physical examination is not completed for any reason (e.g., driver decides they do not want to continue with the examination and leaves) other than situations outlined under determination pending.
- **Medical Examiner information, signature and date:** Provide your name, address, phone number, occupation, license, certificate, or registration number and issuing state, national registry number, Medical Examiner's Certificate expiration date, signature and date.
- **Medical Examiner Determination (State):** Use this section for examinations performed in accordance with the FMCSRs (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations). Complete the medical examiner determination section completely.
 - **Meets standards in 49 CFR 391.41 with any applicable State variances:** Select this option when a driver is determined to be qualified and will be issued a 2-year Medical Examiner's Certificate.
 - **Meets standards, but periodic monitoring is required:** Select this option when a driver is determined to be qualified but needs periodic monitoring and provide an explanation of why periodic monitoring is required. Select the corresponding time frame that the driver is qualified and if selecting other, specify the time frame.
 - **Determination that driver meets standards:** Select all categories that apply to the driver's certification (e.g., wearing corrective lenses, accompanied by a waiver/exemption, etc.).
 - **Incomplete examination:** Select this when the physical examination is not completed for any reason (e.g., driver decides they do not want to continue with the examination and leaves).
 - **Medical Examiner information, signature and date:** Provide your name, address, phone number, occupation, license, certificate, or registration number and issuing state, national registry number, Medical Examiner's Certificate expiration date, signature and date.

Instructions MCSA-5875 (Revised: 02/18/2014)

- II. **If updating an existing exam, you must resubmit the new exam results, via the Medical Examination Results Form, MCSA-5850 to the National Registry, and the most recent dated exam will take precedence.**
- III. **To obtain additional information regarding this form go to the Medical Program's page on the Federal Motor Carrier Safety Administration's website at <http://www.fmcsa.dot.gov/regulations/medical>.**

BILLING CODE 4910-EX-C

(g) * * *

(2)(i) Before June 22, 2018, if the medical examiner finds that the person examined is physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b), he or she must complete a certificate in the form prescribed in paragraph (h) of this section and furnish the original to the person who was examined. The examiner must provide a copy to a

prospective or current employing motor carrier who requests it.

(ii) Beginning June 22, 2018, if the medical examiner identifies that the person examined will not be operating a commercial motor vehicle that requires a commercial driver's license or a commercial learner's permit and finds that the driver is physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b), he or she must complete a certificate in the form

prescribed in paragraph (h) of this section and furnish the original to the person who was examined. The examiner must provide a copy to a prospective or current employing motor carrier who requests it.

(3) Beginning June 22, 2018, if the medical examiner finds that the person examined is not physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b), he or she must inform the person examined that

he or she is not physically qualified, and that this information will be reported to FMCSA. All medical examiner's certificates previously issued to the person are not valid and no longer satisfy the requirements of § 391.41(a).

(4) Beginning June 22, 2018, if the medical examiner finds that the determination of whether the person examined is physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b) should be delayed pending the receipt of additional information or the conduct of further examination in order for the medical examiner to make such determination, he or she must inform the person examined that the additional information must be provided or the further examination completed within 45 days, and that the pending status of the examination will be reported to FMCSA.

(5)(i)(A) Once every calendar month, beginning May 21, 2014 and ending on June 22, 2018, the medical examiner must electronically transmit to the Director, Office of Carrier, Driver and

Vehicle Safety Standards, via a secure Web account on the National Registry, a completed CMV Driver Medical Examination Results Form, MCSA-5850. The Form must include all information specified for each medical examination conducted during the previous month for any driver who is required to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners.

(B) Beginning June 22, 2018 by midnight (local time) of the next calendar day after the medical examiner completes a medical examination for any driver who is required to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners, the medical examiner must electronically transmit to the Director, Office of Carrier, Driver and Vehicle Safety Standards, via a secure FMCSA-designated Web site, a completed CMV Driver Medical Examination Results Form, MCSA-5850. The Form must include all information specified for each medical examination conducted for each driver

who is required to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners in accordance with the provisions of this subpart E, and should also include information for each driver who is required by a State to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners in accordance with the provisions of this subpart E and any variances from those provisions adopted by such State.

(ii) Beginning on May 21, 2014, if the medical examiner does not perform a medical examination of any driver who is required to be examined by a medical examiner listed on the National Registry of Certified Medical Examiners during any calendar month, the medical examiner must report that fact to FMCSA, via a secure FMCSA-designated Web site, by the close of business on the last day of such month.

(h) The medical examiner's certificate shall be completed in accordance with the following Form MCSA-5876, Medical Examiner's Certificate.

Form MCSA-5876 (Revised: 08/26/2014)

OMB No. 2126-0006 Expiration Date: 07/31/2015

<p>Public Burden Statement A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0006. Public reporting for this collection of information is estimated to average approximately 1 minute per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Office, Federal Motor Carrier Safety Administration, MC-PBA, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.</p>	
<p>Medical Examiner's Certificate (for Commercial Driver Medical Certification)</p>	

I certify that I have examined **Last Name:** _____ **First Name:** _____ in accordance with (please check only one):

the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when (check all that apply) OR

the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations), and, with knowledge of the driving duties, I find this person is qualified, and, if applicable, only when (check all that apply):

Wearing corrective lenses Accompanied by a _____ waiver/exemption Driving within an exempt intracity zone (49 CFR 391.62) (Federal)

Wearing hearing aid Accompanied by a Skill Performance Evaluation (SPE) Certificate Qualified by operation of 49 CFR 391.64 (Federal)

Grandfathered from State requirements (State)

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

Medical Examiner's Certificate Expiration Date

Signature of Medical Examiner	Medical Examiner's Telephone Number	Date Certificate Signed
_____	_____	_____
Medical Examiner Name (please print or type)	<input type="radio"/> MD <input type="radio"/> Physician Assistant <input type="radio"/> Advanced Practice Nurse	
_____	<input type="radio"/> DO <input type="radio"/> Chiropractor <input type="radio"/> Other Practitioner (specify) _____	
Medical Examiner's State License, Certificate, or Registration Number	Issuing State	National Registry Number
_____	_____	_____

Signature of Driver	Driver's License Number	Issuing State/Province
_____	_____	_____
Address of Driver	CLP/CDL Applicant/Holder	
Street: _____ City: _____ State/Province: _____ Zip Code: _____	<input type="radio"/> Yes <input type="radio"/> No	

* * * * *

■ 11. Amend § 391.45 by revising paragraphs (b)(2) and (c), and adding new paragraph (d) to read as follows:

§ 391.45 Persons who must be medically examined and certified.

* * * * *

(b) * * *

(2) Any driver authorized to operate a commercial motor vehicle only with an exempt intracity zone pursuant to

§ 391.62, or only by operation of the exemption in § 391.64, if such driver has not been medically examined and certified as qualified to drive in such zone during the preceding 12 months;

(c) Any driver whose ability to perform his/her normal duties has been

impaired by a physical or mental injury or disease; and

(d) Beginning June 22, 2018, any person found by a medical examiner not to be physically qualified to operate a commercial motor vehicle under the provisions of paragraph (g)(3) of § 391.43.

■ 12. Amend § 391.51 by revising paragraphs (b)(7)(i) and (ii), and (b)(9) to read as follows:

§ 391.51 General requirements for driver qualification files.

* * * * *

(b) * * *

(7)(i) The medical examiner's certificate as required by § 391.43(g) or a legible copy of the certificate.

(ii) *Exception.* For CDL holders, beginning January 30, 2012, if the CDLIS motor vehicle record contains medical certification status information, the motor carrier employer must meet this requirement by obtaining the CDLIS motor vehicle record defined at § 384.105 of this chapter. That record must be obtained from the current licensing State and placed in the driver qualification file. After January 30, 2015 a non-excepted, interstate CDL holder without medical certification status information on the CDLIS motor vehicle record is designated "not-certified" to operate a CMV in interstate commerce. After January 30, 2015 and until June 22, 2018, a motor carrier may use a copy of the driver's current medical examiner's certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification.

* * * * *

(9)(i) For drivers not required to have a CDL, a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by § 391.23(m)(1).

(ii) Until June 22, 2018, for drivers required to have a CDL, a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by § 391.23(m)(2).

* * * * *

■ 13. Add Appendix A to Part 391 to read as follows:

Appendix A to Part 391—Medical Advisory Criteria

I. Introduction

This appendix contains the Agency's guidelines in the form of Medical Advisory Criteria to help medical examiners assess a driver's physical qualification. These guidelines are strictly advisory and were established after consultation with physicians, States, and industry

representatives, and, in some areas, after consideration of recommendations from the Federal Motor Carrier Safety Administration's Medical Review Board and Medical Expert Panels.

II. Interpretation of Medical Standards

Since the issuance of the regulations for physical qualifications of commercial motor vehicle drivers, the Federal Motor Carrier Safety Administration has published recommendations called Advisory Criteria to help medical examiners in determining whether a driver meets the physical qualifications for commercial driving. These recommendations have been condensed to provide information to medical examiners that is directly relevant to the physical examination and is not already included in the Medical Examination Report Form.

A. Loss of Limb: § 391.41(b)(1)

A person is physically qualified to drive a commercial motor vehicle if that person: Has no loss of a foot, leg, hand or an arm, or has been granted a Skills Performance Evaluation certificate pursuant to § 391.49.

B. Limb Impairment: § 391.41(b)(2)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no impairment of:

(i) A hand or finger which interferes with prehension or power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or

(iii) Any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or

(iv) Has been granted a Skills Performance Evaluation certificate pursuant to § 391.49.

2. A person who suffers loss of a foot, leg, hand or arm or whose limb impairment in any way interferes with the safe performance of normal tasks associated with operating a commercial motor vehicle is subject to the Skills Performance Evaluation Certificate Program pursuant to § 391.49, assuming the person is otherwise qualified.

3. With the advancement of technology, medical aids and equipment modifications have been developed to compensate for certain disabilities. The Skills Performance Evaluation Certificate Program (formerly the Limb Waiver Program) was designed to allow persons with the loss of a foot or limb or with functional impairment to qualify under the Federal Motor Carrier Safety Regulations by use of prosthetic devices or equipment modifications which enable them to safely operate a commercial motor vehicle. Since there are no medical aids equivalent to the original body or limb, certain risks are still present, and thus restrictions may be included on individual Skills Performance Evaluation certificates when a State Director for the Federal Motor Carrier Safety Administration determines they are necessary to be consistent with safety and public interest.

4. If the driver is found otherwise medically qualified (§ 391.41(b)(3) through (13)), the medical examiner must check on the Medical Examiner's Certificate that the

driver is qualified only if accompanied by a Skills Performance Evaluation certificate. The driver and the employing motor carrier are subject to appropriate penalty if the driver operates a motor vehicle in interstate or foreign commerce without a current Skill Performance Evaluation certificate for his/her physical disability.

C. Diabetes: § 391.41(b)(3)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

2. Diabetes mellitus is a disease which, on occasion, can result in a loss of consciousness or disorientation in time and space. Individuals who require insulin for control have conditions which can get out of control by the use of too much or too little insulin, or food intake not consistent with the insulin dosage. Incapacitation may occur from symptoms of hyperglycemic or hypoglycemic reactions (drowsiness, semi consciousness, diabetic coma or insulin shock).

3. The administration of insulin is, within itself, a complicated process requiring insulin, syringe, needle, alcohol sponge and a sterile technique. Factors related to long-haul commercial motor vehicle operations, such as fatigue, lack of sleep, poor diet, emotional conditions, stress, and concomitant illness, compound the dangers, the Federal Motor Carrier Safety Administration has consistently held that a diabetic who uses insulin for control does not meet the minimum physical requirements of the Federal Motor Carrier Safety Regulations.

4. Hypoglycemic drugs, taken orally, are sometimes prescribed for diabetic individuals to help stimulate natural body production of insulin. If the condition can be controlled by the use of oral medication and diet, then an individual may be qualified under the present rule. Commercial motor vehicle drivers who do not meet the Federal diabetes standard may call (202) 366-4001 for an application for a diabetes exemption.

D. Cardiovascular Condition: § 391.41(b)(4)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive cardiac failure.

2. The term "has no current clinical diagnosis of" is specifically designed to encompass: "a clinical diagnosis of" a current cardiovascular condition, or a cardiovascular condition which has not fully stabilized regardless of the time limit. The term "known to be accompanied by" is designed to include a clinical diagnosis of a cardiovascular disease which is accompanied by symptoms of syncope, dyspnea, collapse or congestive cardiac failure; and/or which is likely to cause syncope, dyspnea, collapse or congestive cardiac failure.

3. It is the intent of the Federal Motor Carrier Safety Regulations to render

unqualified, a driver who has a current cardiovascular disease which is accompanied by and/or likely to cause symptoms of syncope, dyspnea, collapse, or congestive cardiac failure. However, the subjective decision of whether the nature and severity of an individual's condition will likely cause symptoms of cardiovascular insufficiency is on an individual basis and qualification rests with the medical examiner and the motor carrier. In those cases where there is an occurrence of cardiovascular insufficiency (myocardial infarction, thrombosis, etc.), it is suggested before a driver is certified that he or she have a normal resting and stress electrocardiogram, no residual complications and no physical limitations, and is taking no medication likely to interfere with safe driving.

4. Coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not medically disqualifying. Implantable cardioverter defibrillators are disqualifying due to risk of syncope. Coumadin is a medical treatment which can improve the health and safety of the driver and should not, by its use, medically disqualify the commercial motor vehicle driver. The emphasis should be on the underlying medical condition(s) which require treatment and the general health of the driver. The Federal Motor Carrier Safety Administration should be contacted at (202) 366-4001 for additional recommendations regarding the physical qualification of drivers on coumadin.

E. Respiratory Dysfunction: § 391.41(b)(5)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with ability to control and drive a commercial motor vehicle safely.

2. Since a driver must be alert at all times, any change in his or her mental state is in direct conflict with highway safety. Even the slightest impairment in respiratory function under emergency conditions (when greater oxygen supply is necessary for performance) may be detrimental to safe driving.

3. There are many conditions that interfere with oxygen exchange and may result in incapacitation, including emphysema, chronic asthma, carcinoma, tuberculosis, chronic bronchitis and sleep apnea. If the medical examiner detects a respiratory dysfunction, that in any way is likely to interfere with the driver's ability to safely control and drive a commercial motor vehicle, the driver must be referred to a specialist for further evaluation and therapy. Anticoagulation therapy for deep vein thrombosis and/or pulmonary thromboembolism is not medically disqualifying once optimum dose is achieved, provided lower extremity venous examinations remain normal and the treating physician gives a favorable recommendation.

F. Hypertension: § 391.41(b)(6)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no current clinical diagnosis of high blood pressure likely to interfere with ability to operate a commercial motor vehicle safely.

2. Hypertension alone is unlikely to cause sudden collapse; however, the likelihood increases when target organ damage, particularly cerebral vascular disease, is present. This regulatory criteria is based on the Federal Motor Carrier Safety Administration's Cardiovascular Advisory Guidelines for the Examination of commercial motor vehicle Drivers, which used the Sixth Report of the Joint National Committee on Detection, Evaluation, and Treatment of High Blood Pressure (1997).

3. Stage 1 hypertension corresponds to a systolic blood pressure of 140–159 mmHg and/or a diastolic blood pressure of 90–99 mmHg. The driver with a blood pressure in this range is at low risk for hypertension-related acute incapacitation and may be medically certified to drive for a one-year period. Certification examinations should be done annually thereafter and should be at or less than 140/90. If less than 160/100, certification may be extended one time for 3 months.

4. A blood pressure of 160–179 systolic and/or 100–109 diastolic is considered Stage 2 hypertension, and the driver is not necessarily unqualified during evaluation and institution of treatment. The driver is given a one-time certification of three months to reduce his or her blood pressure to less than or equal to 140/90. A blood pressure in this range is an absolute indication for anti-hypertensive drug therapy. Provided treatment is well tolerated and the driver demonstrates a blood pressure value of 140/90 or less, he or she may be certified for one year from date of the initial exam. The driver is certified annually thereafter.

5. A blood pressure at or greater than 180 (systolic) and 110 (diastolic) is considered Stage 3, high risk for an acute blood pressure-related event. The driver may not be qualified, even temporarily, until reduced to 140/90 or less and treatment is well tolerated. The driver may be certified for 6 months and biannually (every 6 months) thereafter if at recheck blood pressure is 140/90 or less.

6. Annual recertification is recommended if the medical examiner does not know the severity of hypertension prior to treatment. An elevated blood pressure finding should be confirmed by at least two subsequent measurements on different days.

7. Treatment includes nonpharmacologic and pharmacologic modalities as well as counseling to reduce other risk factors. Most antihypertensive medications also have side effects, the importance of which must be judged on an individual basis. Individuals must be alerted to the hazards of these medications while driving. Side effects of somnolence or syncope are particularly undesirable in commercial motor vehicle drivers.

8. Secondary hypertension is based on the above stages. Evaluation is warranted if patient is persistently hypertensive on maximal or near-maximal doses of 2–3 pharmacologic agents. Some causes of secondary hypertension may be amenable to surgical intervention or specific pharmacologic disease.

G. Rheumatic, Arthritic, Orthopedic, Muscular, Neuromuscular or Vascular Disease: § 391.41(b)(7)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease which interferes with the ability to control and operate a commercial motor vehicle safely.

2. Certain diseases are known to have acute episodes of transient muscle weakness, poor muscular coordination (ataxia), abnormal sensations (paresthesia), decreased muscular tone (hypotonia), visual disturbances and pain which may be suddenly incapacitating. With each recurring episode, these symptoms may become more pronounced and remain for longer periods of time. Other diseases have more insidious onsets and display symptoms of muscle wasting (atrophy), swelling and paresthesia which may not suddenly incapacitate a person but may restrict his/her movements and eventually interfere with the ability to safely operate a motor vehicle. In many instances these diseases are degenerative in nature or may result in deterioration of the involved area.

3. Once the individual has been diagnosed as having a rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease, then he/she has an established history of that disease. The physician, when examining an individual, should consider the following: The nature and severity of the individual's condition (such as sensory loss or loss of strength); the degree of limitation present (such as range of motion); the likelihood of progressive limitation (not always present initially but may manifest itself over time); and the likelihood of sudden incapacitation. If severe functional impairment exists, the driver does not qualify. In cases where more frequent monitoring is required, a certificate for a shorter period of time may be issued.

H. Epilepsy: § 391.41(b)(8)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

2. Epilepsy is a chronic functional disease characterized by seizures or episodes that occur without warning, resulting in loss of voluntary control which may lead to loss of consciousness and/or seizures. Therefore, the following drivers cannot be qualified:

- (i) A driver who has a medical history of epilepsy;
- (ii) A driver who has a current clinical diagnosis of epilepsy; or
- (ii) A driver who is taking antiseizure medication.

3. If an individual has had a sudden episode of a nonepileptic seizure or loss of consciousness of unknown cause which did not require antiseizure medication, the decision as to whether that person's condition will likely cause loss of consciousness or loss of ability to control a motor vehicle is made on an individual basis by the medical examiner in consultation with

the treating physician. Before certification is considered, it is suggested that a 6 month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.

4. In those individual cases where a driver has a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition and has no existing residual complications, and not taking antiseizure medication.

5. Drivers with a history of epilepsy/seizures off antiseizure medication and seizure-free for 10 years may be qualified to drive a commercial motor vehicle in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a commercial motor vehicle in interstate commerce if seizure-free and off antiseizure medication for a 5-year period or more.

I. Mental Disorders: § 391.41(b)(9)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with ability to drive a motor vehicle safely.

2. Emotional or adjustment problems contribute directly to an individual's level of memory, reasoning, attention, and judgment. These problems often underlie physical disorders. A variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving. Physical fatigue, headache, impaired coordination, recurring physical ailments and chronic "nagging" pain may be present to such a degree that certification for commercial driving is inadvisable. Somatic and psychosomatic complaints should be thoroughly examined when determining an individual's overall fitness to drive. Disorders of a periodically incapacitating nature, even in the early stages of development, may warrant disqualification.

3. Many bus and truck drivers have documented that "nervous trouble" related to neurotic, personality, or emotional or adjustment problems is responsible for a significant fraction of their preventable accidents. The degree to which an individual is able to appreciate, evaluate and adequately respond to environmental strain and emotional stress is critical when assessing an individual's mental alertness and flexibility to cope with the stresses of commercial motor vehicle driving.

4. When examining the driver, it should be kept in mind that individuals who live under chronic emotional upsets may have deeply ingrained maladaptive or erratic behavior patterns. Excessively antagonistic, instinctive, impulsive, openly aggressive,

paranoid or severely depressed behavior greatly interfere with the driver's ability to drive safely. Those individuals who are highly susceptible to frequent states of emotional instability (schizophrenia, affective psychoses, paranoia, anxiety or depressive neuroses) may warrant disqualification. Careful consideration should be given to the side effects and interactions of medications in the overall qualification determination.

J. Vision: § 391.41(b)(10)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

2. The term "ability to recognize the colors of" is interpreted to mean if a person can recognize and distinguish among traffic control signals and devices showing standard red, green and amber, he or she meets the minimum standard, even though he or she may have some type of color perception deficiency. If certain color perception tests are administered, (such as Ishihara, Pseudoisochromatic, Yarn) and doubtful findings are discovered, a controlled test using signal red, green and amber may be employed to determine the driver's ability to recognize these colors.

3. Contact lenses are permissible if there is sufficient evidence to indicate that the driver has good tolerance and is well adapted to their use. Use of a contact lens in one eye for distance visual acuity and another lens in the other eye for near vision is not acceptable, nor telescopic lenses acceptable for the driving of commercial motor vehicles.

4. If an individual meets the criteria by the use of glasses or contact lenses, the following statement shall appear on the Medical Examiner's Certificate: "Qualified only if wearing corrective lenses." commercial motor vehicle drivers who do not meet the Federal vision standard may call (202) 366-4001 for an application for a vision exemption.

K. Hearing: § 391.41(b)(11)

1. A person is physically qualified to drive a commercial motor vehicle if that person: First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ADA Standard) Z24.5-1951.

2. Since the prescribed standard under the Federal Motor Carrier Safety Regulations is from the American National Standards Institute, formerly the American Standards Association, it may be necessary to convert

the audiometric results from the International Organization for Standardization standard to the American National Standards Institute standard. Instructions are included on the Medical Examination Report Form.

3. If an individual meets the criteria by using a hearing aid, the driver must wear that hearing aid and have it in operation at all times while driving. Also, the driver must be in possession of a spare power source for the hearing aid.

4. For the whispered voice test, the individual should be stationed at least 5 feet from the medical examiner with the ear being tested turned toward the medical examiner. The other ear is covered. Using the breath which remains after a normal expiration, the medical examiner whispers words or random numbers such as 66, 18, 3, etc. The medical examiner should not use only sibilants (sounding materials). The opposite ear should be tested in the same manner.

5. If the individual fails the whispered voice test, the audiometric test should be administered. If an individual meets the criteria by the use of a hearing aid, the following statement must appear on the Medical Examiner's Certificate "Qualified only when wearing a hearing aid."

L. Drug Use: § 391.41(b)(12)

1. A person is physically qualified to drive a commercial motor vehicle if that person does not use any drug or substance identified in 21 CFR 1308.11, an amphetamine, a narcotic, or other habit-forming drug. A driver may use a non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 if the substance or drug is prescribed by a licensed medical practitioner who:

(i) Is familiar with the driver's medical history, and assigned duties; and

(ii) Has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

2. This exception does not apply to methadone. The intent of the medical certification process is to medically evaluate a driver to ensure that the driver has no medical condition which interferes with the safe performance of driving tasks on a public road. If a driver uses an amphetamine, a narcotic or any other habit-forming drug, it may be cause for the driver to be found medically unqualified. If a driver uses a Schedule I drug or substance, it will be cause for the driver to be found medically unqualified. Motor carriers are encouraged to obtain a practitioner's written statement about the effects on transportation safety of the use of a particular drug.

3. A test for controlled substances is not required as part of this biennial certification process. The Federal Motor Carrier Safety Administration or the driver's employer should be contacted directly for information on controlled substances and alcohol testing under Part 382 of the FMCSRs.

4. The term "uses" is designed to encompass instances of prohibited drug use determined by a physician through established medical means. This may or may not involve body fluid testing. If body fluid testing takes place, positive test results

should be confirmed by a second test of greater specificity. The term “habit-forming” is intended to include any drug or medication generally recognized as capable of becoming habitual, and which may impair the user’s ability to operate a commercial motor vehicle safely.

5. The driver is medically unqualified for the duration of the prohibited drug(s) use and until a second examination shows the driver is free from the prohibited drug(s) use. Recertification may involve a substance abuse evaluation, the successful completion of a drug rehabilitation program, and a negative drug test result. Additionally, given

that the certification period is normally two years, the medical examiner has the option to certify for a period of less than 2 years if this medical examiner determines more frequent monitoring is required.

M. Alcoholism: § 391.41(b)(13)

1. A person is physically qualified to drive a commercial motor vehicle if that person: Has no current clinical diagnosis of alcoholism.

2. The term “current clinical diagnosis of” is specifically designed to encompass a current alcoholic illness or those instances where the individual’s physical condition

has not fully stabilized, regardless of the time element. If an individual shows signs of having an alcohol-use problem, he or she should be referred to a specialist. After counseling and/or treatment, he or she may be considered for certification.

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Chief Counsel.

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