



This document is scheduled to be published in the Federal Register on 12/16/2014 and available online at <http://federalregister.gov/a/2014-29288>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0430]

Agency Information Collection Activities; Request for Comments; Revision of an Approved Information Collection: Medical Qualification Requirements

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests to revise an ICR entitled, “*Medical Qualification Requirements*,” due to updated information for several of the Information Collections (ICs) discussed. This ICR is needed to ensure that drivers, motor carriers and the States are complying with the medical qualification requirements of commercial motor vehicle (CMV) drivers. The information collected is used to determine and certify driver medical fitness and must be collected in order for our highways to be safe.

DATES: We must receive your comments on or before **[Insert date 60 days after the date of publication of this notice in the Federal Register]**.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2014-0430 using any of the following methods:

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

- Fax: 1-202-493-2251.
- Mail: Docket Services; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdfE8-794.pdf>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you

want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan III,
Director, Office of Carrier, Driver, and Vehicle, Safety Standards, Department of
Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor,
1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-2362;
email charles.horan@dot.gov.

SUPPLEMENTARY INFORMATION:

Background: CMVs (trucks and buses) are longer, heavier, and more difficult to maneuver than automobiles, making them a threat to highway safety if not operated properly by qualified individuals. The public interest in, and right to have, safe highways requires the assurance that drivers of CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's medical standards provide this assurance by requiring drivers to be examined and medically certified as physically and mentally qualified to drive. Therefore, information used to determine and certify driver medical fitness must be collected in order for our highways to be safe. FMCSA is the Federal government agency authorized to require the collection of this information. FMCSA is required by statute to establish standards for the physical qualifications of drivers who operate CMVs in interstate commerce for non-excepted industries [49 U.S.C. 31136(a)(3) and 31502(b)]. The regulations discussing this collection are outlined in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR 390-399.

The estimate of the number of CMV drivers and motor carriers covered by the IC activities for Physical Qualification Standards and the National Registry of Certified Medical Examiners (National Registry) reflects both interstate drivers and motor carriers subject to the FMCSRs and intrastate drivers and motor carriers subject to compatible State regulations. Although Federal regulations do not require States to comply with the medical requirements in the FMCSRs, most States do mirror the Federal requirements. If intrastate CMV drivers are subject to Federal compatible State regulations, the Agency anticipates that it is likely that these drivers will use certified MEs on the National Registry for their medical qualification examinations. In addition, a small number of drivers transporting 8 or less migrant workers more than 75 miles in interstate commerce that are still subject to the medical certification requirements of 49 CFR 398 are included in this population.

Below is a brief description of the included IC activities and how the information is used.

Physical Qualification Standards

FMCSRs at 49 CFR § 391.41 set forth the physical qualification standards that interstate CMV drivers who are subject to part 391 must meet, with the exception of commercial driver's license (CDL)/commercial learner's permit (CLP) drivers transporting migrant workers (who must meet the physical qualification standards set forth in 49 CFR § 398.3). The FMCSRs covering driver physical qualification records are found at 49 CFR § 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination shall be recorded in accordance with the requirements set forth in that

section. The current provisions of 49 CFR § 391.51 and 398.3 require that a motor carrier retain the Medical Examiner's Certificate (MEC) in the driver's qualification (DQ) file for 3 years. The certificate affirms that the driver is physically qualified to drive a CMV in interstate commerce.

Due to potential for onset of new conditions or changes in existing conditions that may adversely affect a driver's ability to drive safely and/or cause incapacitation that could be a risk to public safety, periodic re-evaluation and recertification is required to assess driver physical qualification. MECs may be issued for up to 2 years after the date of examination. However, drivers with certain medical conditions must be certified more frequently than every 2 years. Medical Examiners (MEs) have discretion to certify for shorter time periods on a case-by-case basis for medical conditions that require closer monitoring or that are more likely to change over time. In addition, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Pub. L. 109-59), enacted in 2005 and amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21, Pub. L. 112-141) requires MEs to transmit to FMCSA's Chief Medical Officer, electronically and on a monthly basis, driver information and results of any CMV driver medical examinations conducted during the previous month. MEs are required to maintain records of the CMV driver medical examinations they conduct. FMCSA does not require MEs to maintain these records electronically. However, there is nothing to preclude a ME from maintaining electronic records of the medical examinations he/she conducts. FMCSA is continuously evaluating new information technology in an attempt to decrease the burden on motor carriers and MEs. Less frequent collection of driver data, Medical Examination Reports

(MERs), and MECs would compromise FMCSA's ability to determine ME compliance with FMCSA medical standards and guidelines in performing CMV driver medical examinations, which could result in MEs listed on the National Registry who should be removed and possibly drivers that don't meet the physical qualification standards possessing a MEC. Less frequent data collection would also result in decreased validity of the data (i.e., less frequent data submission may increase the error rate due to unintentional omission of examination information). Therefore, less frequent collection of driver examination results is not an option.

Resolution of Medical Conflict

The medical conflict provision provides a mechanism for drivers and motor carriers to request FMCSA to make a final decision to resolve conflicting medical evaluations when either party does not accept the decision of a medical specialist. If two MEs disagree about the medical certification of a driver, the requirements set forth in 49 CFR § 391.47 mandate that the applicant (driver or motor carrier) submit a copy of a report including results of all medical testing and the opinion of an impartial medical specialist in the field in which the medical conflict arose. The applicant may, if they choose to do so, submit the information above using fax and/or email. FMCSA uses the information collected from the applicant, including medical information, to determine if the driver should or should not be qualified. Without this provision and its incumbent driver medical information collection requirements, an unqualified person may be permitted to drive and qualified persons may be prevented from driving.

Medical Exemptions and Skills Performance Evaluation (SPE) Certificates

FMCSA may, on a case by case basis, grant a medical exemption from a physical qualification standard set forth in 49 CFR § 391.41, if the Agency determines the exemption is in the interest of the public and would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation. Individuals with limb impairments are permitted to operate a CMV, but only when they are otherwise qualified and are granted a Skills Performance Evaluation (SPE) certificate by FMCSA. Title 49 CFR § 381.300 establishes the procedures that persons must follow to request exemptions from FMCSA safety regulations. Without an exemption, individuals who do not meet the requirements in 49 CFR § 391.41 would not be qualified to operate a CMV in interstate commerce. The application process for all exemptions currently provides for electronic collection of the application information by FMCSA for those applicants that choose to do so. They are able to fax or scan and email documents to FMCSA. In addition, the Diabetes and Vision Exemption Programs and the SPE Certificate Program maintain a database of application information. FMCSA must collect medical information about the driver's medical condition in order to determine eligibility to receive an exemption or an SPE certificate. The Agency requires all exemptions be renewed every 2 years to ensure that the granting of the exemption does not diminish safety under 49 CFR § 381.310. Exemption holders are required to submit annual medical information for review to ensure the driver continues to meet the physical qualification requirements. In the interest of highway safety, the medical examination, exemption, and SPE renewal should not be performed less frequently.

The National Registry of Certified Medical Examiners (National Registry)

The National Registry requires MEs that conduct medical examinations for interstate CMV drivers to complete training concerning FMCSA physical qualification standards, pass a certification test, and maintain competence through periodic training and testing, all of which require information collection. ME candidates submit demographic and eligibility data in order to register on the National Registry website to begin the certification process. This data is used to provide the public with contact information for those medical professionals who are certified by FMCSA to conduct interstate CMV driver medical examinations. Less frequent collection of ME candidate test results and identity and eligibility information means that there are less healthcare professionals attempting to become certified which would result in fewer certified MEs being available to the CMV driver and motor carrier population. This could place a huge burden on drivers and motor carriers to find certified MEs to perform their medical examinations. Therefore, less frequent collection of ME candidate test results and identity and eligibility information is not an option. MEs must provide specific driver medical examination information for every driver they examine on medical forms required by FMCSA and into the National Registry. Drivers must provide identification and health history information on medical forms required by FMCSA. The purpose for providing this information is to enable the ME to determine if the driver is medically qualified under 49 CFR § 391.41 and to ensure that there are no disqualifying medical conditions that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public. If this information was not required, the threat to public safety would be immense and unacceptable.

The National Registry also requires motor carriers to verify the national registry number of the MEs who certify their drivers and place a note in the DQ file. Less frequent verification of the national registry numbers by motor carriers would mean drivers may not have been examined by a certified ME listed on the National Registry and they may no longer meet the physical qualifications standards of the FMCSRs even though they were previously certified as physically qualified.

Title: Medical Qualification Requirements.

OMB Control Number: 2126-0006.

Type of Request: Revision of a currently approved information collection.

Respondents: Commercial motor vehicle drivers, motor carriers, medical examiners, testing centers.

Estimated Number of Respondents: 4,623,000 CMV drivers, 540,000 motor carriers, 40,000 medical examiners, 1,000 test centers).

Expiration Date: July 31, 2015.

Estimated Total Annual Burden: 2,633,702 hours. This ICR is comprised of the following five information collection activities:

Physical Qualification Standards

2,080,350 annual burden hours

Resolution of Medical Conflict

11 annual burden hours

Medical Exemptions

4,580 annual burden hours

SPE Certificate Program

2,661 annual burden hours

National Registry of Certified Medical Examiners

546,100 annual burden hours

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: December 8, 2014

G. Kelly Regal
Associate Administrator for Office of
Research and Information Technology
and Chief Information Officer

[FR Doc. 2014-29288 Filed 12/15/2014 at 8:45 am; Publication Date: 12/16/2014]