Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Moran, Channel 281A.

[FR Doc. 2013–11124 Filed 5–9–13; 8:45 am]

BILLING CODE 6712–01–P

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: Notice of proposed rulemaking.

SUMMARY: FMCSA proposes to require certified medical examiners (MEs) performing physical examinations on drivers of commercial motor vehicles (CMV) 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). In addition, MEs would 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 qualified) to FMCSA by close of business on the day of the examination. This would include 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). Reporting of this information would be accomplished, by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via their individual password-protected National Registry web account. For holders of CDLs and CLPs, FMCSA also proposes to electronically transmit driver identification, examination results, and restriction information from the National Registry system to the State Driver Licensing Agencies (SDLAs). This includes those that have been voided by FMCSA because it finds that an ME has certified a driver who does not meet the physical certification standards. The Agency would also transmit medical variance information (exemptions, skills performance evaluation certificates and grandfathered exemptions) for all CMV drivers electronically to the SDLAs. Transmission of this information would allow authorized State and Federal enforcement officials to be able to view the most current and accurate information regarding the medical status of the CMV driver, all information on the MEC, and the medical variance information (as defined above) to include the issued and expiration dates.

DATES: Comments must be received on or before July 9, 2013.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2012–0178 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Office of Medical Programs, 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 Operations, telephone (202) 366–9826.

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I. Public Participation and Request for Comments

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you provide.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2012–0178), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You

may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop-down menu, select ''Proposed Rules,'' insert ''FMCSA 2011–0178'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit your comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble, available in the docket, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right-hand side of the screen. Then in the ''Keyword'' box, insert ''FMCSA–2012–0178'' and click ''Search.'' Next, click the ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's 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://www.gpo.gov/fdsys/pkg/FR-2008-01-17/pdf/E8-785.pdf.*

II. Executive Summary

A. Purpose and Summary of the Major Provisions

FMCSA proposes to require certified MEs performing physical examinations on drivers of CMV to use a newly developed Medical Examination Report (MER) Form, MCSA–5875, in place of the current MER Form and to use the prescribed Form MCSA–5876 for the MEC. In addition, MEs would 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 qualified) to FMCSA by close of business on the day of the examination. This would include all CMV drivers who are required to be medically certified to operate in interstate commerce, not only those who hold or apply for CLP or CDL. Reporting of this information would be accomplished, by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via their individual password-protected National Registry web account. For holders of CDLs and CLPs, FMCSA also proposes to electronically transmit driver identification, examination results, and restriction information from the National Registry system to the SDLAs. This includes those that have been voided by FMCSA because it finds that an ME has certified a driver who does not meet the physical certification standards. The Agency would also transmit medical variance information (exemptions, skills performance evaluation certificates and grandfathered exemptions) for all CMV drivers electronically to the SDLAs. Transmission of this information would allow authorized State and Federal enforcement officials to be able to view the most current and accurate information regarding the medical status of the CMV driver, all information on the MEC, and the medical variance information (as defined above) to include the issued and expiration dates.

B. Benefits and Costs

The estimated economic costs of this proposed rule would not exceed the $100 million annual threshold, to be determined ''economically significant.'' The only additional cost imposed by the NPRM, would result from the ME entering the CMV Driver Medical Examination Results (MCSA–5850) data more frequently into the National Registry system. This cost is considered minimal in the amount of $455,994, as detailed in the Medical Qualifications Requirements Supporting Statement (OMB control number 2126–0006).

The potential estimated benefits are detailed in the table below. The revised 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

	Million
Removal of the requirement for employers to verify the MEs National Registry number for CDL drivers	$4.22
MEC and variance info sent electronically to SDLAs	2.17
SDLAs not recording MEC information	3.69
Total	10.1

The qualitative safety benefits of this rule are difficult to fully quantify. However, the Agency believes that the fraud prevention in electronic transmission of the MEC and variance information will continue to improve safety on public roads. In addition, physical qualification standards described in 49 CFR 391.41(b) will be more accurately determined for CMV drivers. The new MER Form, MCSA–5875, eliminates the advisory criteria (guidance) contained in the current MER Form that has been sometimes misinterpreted when applying the regulatory standards. Thus, MEs can make more accurate decisions regarding the physical qualification of CMV drivers.

III. Abbreviations

APN Advanced Practice Nurses
BLS Bureau of Labor Statistics
CAA Clean Air Act
CE Categorical Exclusion
CDL Commercial Driver's License
CDLIS Commercial Driver's License Information System
CLP Commercial Leaner's Permit
CMV Commercial Motor Vehicle
DC Doctors of Chiropractic
DO Doctor of Osteopathy
DOT U.S. Department of Transportation
DQ Driver Qualification
E-MAIL Electronic Mail
FHWA Federal Highway Administration
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
IC Information Collection
ICC Interstate Commerce Commission
IRFA Initial Regulatory Flexibility Analysis
MAP–21 Moving Ahead for Progress in the 21st Century Act
MD Medical Doctor
ME Certified Medical Examiner
MEC Medical Examiner's Certificate

MER Medical Examiner Report
MCSIA Motor Carrier Safety Improvement Act
MVR Motor Vehicle Record
NLETS National Law Enforcement Telecommunication System
NPRM Notice of Proposed Rulemaking
NRCME National Registry of Certified Medical Examiners
NTSB National Transportation Safety Board
OMB Office of Management and Budget
PA Physician Assistant
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's Licensing Agencies
SPE Skill Performance Evaluation

IV. Legal Basis for the Rulemaking

The purpose of the principal requirements proposed in this NPRM 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, by close of business on the day of the examination by MEs for drivers required to have a CDL, would then be promptly and accurately transmitted to the SDLAs electronically for entry into the appropriate CDL driver record within one business day of receipt from FMCSA. In view of this purpose, the legal bases of the two previous final rules also serve as the legal basis for this proposed 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 (MCSIA) [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, is 49 U.S.C. 31149, enacted by section 4116(a) of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law 109–59, 119 Stat. 1726 (Aug. 10, 2005) (SAFETEA–LU). Brief summaries of the relevant legal bases for the proposed requirements in this NPRM are set out below. More detailed discussions of the legal basis for each of the previous final rules published in 2008 and 2012 may be found in their preambles, at 73 FR 73096–73097 and 77 FR 24105–24106, respectively.

A. Authority Over Drivers Affected

1. Drivers Required to Obtain a MEC

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)].

Subject to certain limited industry exceptions,[1] 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)]. Such drivers must obtain from a ME a certification indicating that the driver is physically qualified to drive a CMV. [49 CFR 391.41(a), 391.43(g) and (h)]. 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) recently 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 promulgated under this section, or chapter 51 or chapter 313 of this title'' [49 U.S.C. 31136(a)(5)]. See the discussion in the Proposed Rule Section 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 following requirement:

> (1) 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 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. [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 § 31133(a)(8) to require more frequent and more inclusive reports.[2] 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

As stated in the Legal Basis section, this NPRM is a follow-on rule to both the National Registry of Certified Medical Examiners (NRCME) published on April 20, 2012 (77 FR 2410) and the Medical Certification Requirements as Part of the CDL rule (Med-Cert rule) published on December 1, 2008 (73 FR 73096). It would also be the third rule of an initiative to improve the driver qualification and medical examiner's certificate process. A summary of the major relevant provisions of those two final rules, outlined in V A and V B, provides the background for the proposed rulemaking. In addition, the Agency is also proposing substantial revisions to the MER Form and related regulatory provisions. A summary of the development of that report is also set forth below in V C.

A. Medical Certification Requirements as Part of the CDL

FMCSA's 2008 final rule, Medical Certification Requirements as Part of the Commercial Driver's License [73 FR 73096 (Dec. 1, 2008)] adopted a number of regulatory provisions designed to incorporate information from the MEC into the Commercial Driver's License Information System (CDLIS).

[1] *See* 49 CFR 390.3(f) and 391.2.

[2] The provisions of § 31149(c)(1)(E) have been amended by § 32302(c)(1)(A) of Moving Ahead for Progress in the 21st Century, Public Law 112–141, 126 Stat. 405 (July 6, 2012) (''MAP–21'').

Subsequent actions of the Agency modified some of the provisions adopted in the 2008 final rule [see Medical Certification Requirements as Part of the Commercial Driver's License (CDL); Technical, Organizational, and Conforming Amendments, 75 FR 28499 (May 21, 2010) and Medical Certification Requirements as Part of the Commercial Driver's License (CDL), Extension of Certificate Retention Requirements, 76 FR 70661 (Nov. 15, 2011)]. Most of the requirements established by these actions took effect on January 30, 2012. But some requirements affecting CDL drivers and their employers will not take effect until January 30, 2014.

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, 2014. As modified by these actions, the essential elements of these CDL and CLP medical certification provisions for each of the affected groups are summarized below:

1. SDLAs

The Medical Certification Requirements as Part of the Commercial Driver's License Rule requires the States to modify their CDL procedures to: (1) Record a CDL or CLP driver'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 MECs from drivers operating in non-excepted, interstate commerce who are required by 49 CFR Part 391 to be medically certified; (3) retain the certificate or a copy for 3 years from the date of issuance; (4) post the required information from the certificate or a copy onto the CDLIS driver record within 10 calendar days; (5) update the medical certification status of the CDLIS driver record to show the driver as ''not-certified'' if the certification expires; and (6) downgrade the CDL or CLP within 60 days of the expiration of the driver's MEC. There are also requirements for posting certain information about any medical variances (as defined in the SUMMARY section) 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 Medical Certification Requirements as Part of the Commercial Driver's License Rule requires the State to post within 10 calendar days on the CDLIS driver record the following information from that driver's MEC: (1) ME's name; (2) ME's license or certificate number and the State that issued it; (3) expiration date of the MEC; (4) ME's telephone number; (5) date of physical examination/issuance of the MEC to the driver; (6) National Registry identification number for the ME; (7) medical certification status determination (i.e., ''certified'' or ''not certified''); (8) existence of any medical variance (as defined in the SUMMARY section) on the medical certificate (9) any driver restrictions; and (10) the date the information is entered on the CDLIS driver record.

In addition to the recordkeeping functions, the SDLA must make the driver's medical certification status information electronically accessible to authorized State and Federal enforcement officials via CDLIS and the National Law Enforcement Telecommunication System (NLETS), and to drivers and employers via CDLIS motor vehicle records (MVRs). Based on the Medical Certification Requirements as Part of the Commercial Driver's License Rule, authorized State and Federal enforcement officials will be able to view the most current and accurate information regarding the medical status of the CMV driver, all information on the MEC, and the medical variance information (as defined above) to include the issued and expiration dates.

2. Motor Carriers and Employers

Motor carriers who employ a CDL driver to operate in non-excepted, interstate commerce 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 motor carrier must obtain the CDLIS MVR to verify: (1) The driver's self-certification to operate in non-excepted, interstate commerce; (2) that a non-excepted, interstate driver has a medical certification status of ''certified;'' and, if applicable (3) documentation that the driver was issued a medical variance (as defined in the SUMMARY section) by FMCSA. After the 15th day, the carrier must have obtained a copy of the CDLIS MVR as documentation that the driver is medically ''certified'' and retain the MVR in the DQ file. This record must be checked annually.

3. Drivers

All interstate CDL holders subject to the physical qualifications standards of 49 CFR part 391 must meet the following requirements:

- Beginning January 30, 2012, 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.
- Beginning January 30, 2012 but not later than January 30, 2014, all existing CDL holders who do not have a renewal, upgrade or transfer issuance must still provide the MEC to the SDLA. Thereafter, they must update that information with the SDLA whenever a new certificate is issued.
- Beginning on January 30, 2014, these drivers will no longer have to use the MEC as proof of his or her certification to enforcement personnel or employers, except for the first 15 days after issuance,
- Beginning on January 30, 2014, these drivers will no longer be allowed to carry the actual MEC after the first 15 days after issuance, but must continue to carry any SPE certificate or medical exemption document while on duty.
- Beginning on July 8, 2014, the above requirements will also apply to CLP holders.

Non-CDL 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 of Certified Medical Examiners (NRCME) [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. Current regulations require all interstate commercial drivers (with certain limited exceptions) to be medically examined by an ME (as defined in 49 CFR. 390.5) to determine if these drivers meet FMCSA's physical qualification requirements. The MEs who conduct such physical examinations 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 subpart E of part 391 of the FMCSRs.

The NRCME rule established the National Registry to ensure that all MEs who conduct driver medical examinations have been trained on FMCSA physical qualifications standards and guidelines. In order to be listed on the National Registry, MEs are required to participate in a training program from an accredited provider and pass a certification test to assess their knowledge of the Agency's physical qualifications standards and guidelines and how to apply them to commercial drivers. Upon passing this certification test, and meeting the other administrative requirements associated with the program, MEs will be listed on the National Registry. Once the full compliance date of May 21, 2014 is reached, the Agency will only consider MECs issued to commercial drivers by MEs on the National Registry as valid proof of medical certification. The National Registry final rule also addressed several of the recommendations from National Transportation Safety Board (NTSB) for FMCSA to consider in order to improve the performance of MEs and to ensure that CMV drivers meet the physical qualification standards of the FMCSRs.[3]

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 every physical examination conducted on both CDL and non-CDL drivers. Beginning on May 21, 2014, the NRCME rule will require MEs to submit this information monthly. The CMV Driver Medical Examination Results Form, MCSA–5850, will include almost all of the information on the MEC. The information not included on the form includes the ME's name, address, healthcare profession, state licensing number, state issued by identifier, national registry number and the date the MEC was signed. The information listed is not on the form because it is captured by the National Registry system upon the ME signing in via their individual password-protected National Registry web account. The information from the CMV Driver Medical Examination Results Form, MCSA–5850, and the information captured by the National Registry system upon the ME signing in via their individual password-protected National Registry web account will be combined and forwarded from the National Registry system to the SDLAs to account for all 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. The form and the instructions are presently found in the FMCSRs at 49 CFR 391.43(f). Between 1940 and 1952, the regulations adopted by one of FMCSA's predecessor agencies, the Interstate Commerce Commission (ICC), included a ''Standard Physical Examination Form'' and accompanying instructions for use by doctors of medicine (the only medical practitioners then allowed to perform such examinations), but its use was recommended and not compulsory [former 49 CFR 191.4 (1951 ed.)]. In 1952, the ICC revised the form and the instructions, and revised the regulations to require that the MEC ''be based on a physical examination made and recorded generally in accordance with the following instructions and examination form'' The MER Form and instructions were largely unchanged [*Qualifications of Employees and Safety of Operations,* 54 M.C.C. 337 (1952) and former 49 CFR 191.11 (1952 ed.), 17 FR 4423, 4425–26 (May 15, 1952)].

The regulations issued by the ICC regarding motor carrier safety were adopted by DOT after the transfer of responsibility from the ICC, by Public Law 89–670, 80 Stat. 931 (Oct. 15, 1966), and were renumbered twice without substantive change [32 FR 17941 (Dec. 15, 1967) and 33 FR 19729–32 (Dec. 25, 1968)]. In 1970, the Federal Highway Administration (FHWA), made the first significant revisions in both the examination form and the instructions, which were then, as now, included in 49 CFR. 391.43 [Qualifications of Drivers, 35 FR 6458 (Apr. 22, 1970)]. Over the next 30 years, a number of changes were made, largely as conforming changes to reflect revisions in the physical qualification standards or the rules for controlled substance testing.

In 2000, FMCSA issued a final rule adopting both significant revisions to the instructions and a completely revised MER Form, both of which were substantially in the form in which 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 (i.e., the form will, to the extent possible, include all relevant information necessary to conduct the physical examination and certification).'' [Physical Qualification of Drivers; Medical Examination; Certificate, 65 FR 59363 (Oct. 5, 2000)]. The report was expanded to include a recitation of the physical qualification standards and to provide space to allow recording of laboratory and test data. The MER Form also included a number of advisory criteria providing guidelines from the Agency to assist MEs assess 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 revision, the MER Form and the instructions have been revised to reflect changes in the standards or advisory guidelines relating to hypertension and 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 Proposed Rule

This NPRM is a follow-on rule to both the National Registry of Certified Medical Examiners published on April 20, 2012 (77 FR 2410) and the Medical Certification Requirements as Part of the CDL rule (Med-Cert rule) published on December 1, 2008 (73 FR 73096). It would also be the third component of an initiative to improve the driver qualification and medical examiner's certificate process.

A. Overview

FMCSA proposes that MEs be required to report the results of all completed commercial drivers' physical examinations to FMCSA by close of business on the day the examination is conducted, by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via their individual password-protected National Registry web account. The report would include the results of examinations where the driver was found to be qualified, not qualified and where the ME would indicate that the determination was pending. When the driver was determined to be not qualified, all previous certificates issued to the driver would be deemed invalid. FMCSA would then transmit all of the information from the MEC electronically from the National Registry system to the SDLAs for CLP and CDL holders only. FMCSA anticipates delivering the information to the SDLA the next business day after receipt. It also proposes to transmit to the SDLAs

[3] See NTSB Safety Recommendations H–01–17 through H–01–25, *http://www.ntsb.gov/doclib/recletters/2001/H01_17_25.pdf* (retrieved Feb. 21, 2012).

information about MECs for CDL and CLP drivers that have been invalidated because a subsequent examination has found that the driver is not physically qualified. The SDLAs would then record the driver's status on the CDLIS driver record as ''not certified'' and begin the process of downgrading the CDL in accordance with existing procedures. In addition, the Agency would transmit medical variance information (as defined in the **SUMMARY** section) for all interstate CMV drivers electronically to the SDLAs.

For interstate CMV drivers required to have CDLs or CLPs (after July 8, 2014), FMCSA would then be able to promptly transmit to the SDLAs the drivers' MEC information for entry on the State-managed CDL driver records. For physically qualified non-CDL drivers, the ME will continue to issue a paper MEC, Form MCSA–5876. The ME has the option to either fill in the MEC by hand or to generate an electronically populated copy if the examination information is submitted to the National Registry system at the time of the examination.

FMCSA proposes that the MEs allow and encourage all drivers to review their information on the CMV Driver Medical Examination Results Form, MCSA–5850. This review would reduce data entry errors that will be transmitted to the National Registry and then to the States potentially hindering delivery of the medical certification information to the intended CDLIS driver record.

The medical variance information would originate with FMCSA. A medical variance (as defined in the **SUMMARY** section) is issued by FMCSA to a driver who would otherwise not meet the physical qualification standards in 49 CFR 391.41(b). See proposed 49 CFR 383.73(o)(1)(i)(B)(8), and (o)(2) and (3). FMCSA would transmit this medical variance information for all CMV (both CDL and non-CDL) drivers electronically to the appropriate SDLAs whenever FMCSA issues, renews, or rescinds a medical variance. FMCSA proposes to require the SDLAs to update CDLIS driver records each business day with medical variance information (as defined in the **SUMMARY** section) transmitted from FMCSA for CLP and CDL drivers. This will allow the most current information about the medical status of CDL drivers to be made available promptly and accurately.

FMCSA will also forward information to the SDLAs when FMCSA voids a MEC issued to a driver required to have a CDL or CLP. Under the authority granted by 49 U.S.C. 31149(c)(2), FMCSA may void a 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 medical examiner has falsely claimed to have completed training in physical and medical examination standards.'' Some examples of circumstances in which the driver does not meet the applicable standards that might trigger such action by the Agency could include, but would not be limited to, when a driver has falsified or omitted disclosing potentially disqualifying medical information to the ME at the time of the examination or when a ME has not applied correctly the physical qualification standards in deciding that the driver was physically qualified. The Agency is developing 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.

Before voiding the MEC, 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 the action should not be taken. If the decision is made to void the driver's certificate, FMCSA would notify the driver. If the driver holds a CDL or CLP, notification would be transmitted by FMCSA to the driver's SDLA through the National Registry, and the SDLA would change the CDL or CLP driver's medical status to ''not certified'' and notify the driver of the action taken.

B. Medical Examination Procedures

FMCSA proposes 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. New versions of the Instructions for Performing and Recording Physical Examinations will be published in FMCSA guidance documents.

FMCSA also proposes to require MEs to begin using a newly developed MER Form, MCSA–5875, in place of the current MER Form. This form was developed by FMCSA in consultation with health care practitioners that are familiar with performing driver medical examinations. The use of the proposed form would be required, and is being submitted for the necessary approvals under the Paperwork Reduction Act, 44 U.S.C. 3501–21. The proposed MER Form, MCSA–5875, would make the information collected on driver health history more comprehensive, streamline the format, strengthen the efficiency of frequently used clinical processes and tools for performing driver physical examinations, expand the ME determination section, add a statement for the ME signature, add a National Registry Number, and add a section for amending the ME determination.

The revised MER Form, MCSA–5875, would no longer include information about the driver's role, a listing of physical qualification standards for drivers, detailed instructions for performing the examination, and the medical advisory criteria. Information about the driver's role, detailed guidance about performing the examination, and the medical advisory criteria would be published in FMCSA guidance documents. The physical qualification standards are published in the FMCSRs. Both will be covered in training required for an ME to be listed on the National Registry.

The MER Form, MCSA–5875, would expand the ME determination section by eliminating the ''Temporarily Disqualified'' option and adding a ''Pending Determination'' option to defer a decision temporarily for up to 45 days, if the ME requires additional information to make a determination of whether or not the driver was qualified. The form would also add a place for an ME to amend the certification decision if the driver did not require a completely new examination. FMCSA would consider any CMV Driver Medical Examination Results Form, MCSA–5850, displaying a ''Pending Determination'' status as an incomplete examination. This information will be submitted and stored only in the National Registry system. If the disposition of the pending examination is not updated by the ME before the 45 day expiration date, FMCSA would 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 invalidated examination information in the National Registry System.

C. SDLAs

SDLAs would no longer require CLP and CDL holders and applicants to provide their MECs or accept medical

variance documents (as defined in the **SUMMARY** section) from CLP and CDL drivers required to have a medical variance. The SDLA would receive information about CDL and CLP drivers determined to be physically qualified electronically from FMCSA, as well as information about drivers whose MECs have been invalidated because the driver has been determined to be not physically qualified as a result of a subsequent examination. The SDLAs would be required to update CLP and CDL driver records with medical certification information within one business day of receipt from FMCSA. In addition, the SDLAs would be required to update driver medical variance information (for CDL and CLP drivers) within one business day of receipt from FMCSA.

D. Drivers

Drivers who are required to have a CDL or a CLP would no longer be required to provide either their MECs or any medical variance documents (as defined in the **SUMMARY** section) to the SDLA. FMCSA would provide that information to the SDLA electronically. CDL or CLP drivers would no longer be required to carry a valid MEC while 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 CDL 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. The electronic record of the driver's medical certification would be the only valid evidence that the driver was physically qualified. Non-CDL drivers will continue to be required to carry the original, or a copy, of the MEC. All CMV drivers would however be required to carry any relevant medical variance documents (as defined in the **SUMMARY** section).

FMCSA does not believe this proposed rule would result in any operator of a CMV being coerced to violate any other safety regulations, because the proposed rule is entirely designed to enhance compliance with the physical qualification requirements applicable to all CMV drivers. Indeed, by providing MEC information and medical variance information (as defined in the **SUMMARY** section) directly to the SDLAs, FMCSA will eliminate the opportunity for drivers to provide fraudulent documents to their SDLAs and the opportunity for motor carriers, shippers, receivers, or transportation intermediaries to coerce them to do so. In addition, CDL MEC information will be transmitted to the SDLAs only for drivers certified by an ME listed on the National Registry, thereby eliminating the possibility of motor carriers coercing drivers to operate without a valid MEC.

E. MEs

MEs would complete the new MER Form, MCSA 5875, when performing driver physical examinations, based on FMCSA regulations and advisory criteria published by FMCSA. They would be required to report results of all driver physical examinations, including those who failed to meet the FMCSA physical qualification standards and those who are pending further evaluation before the physical qualification determination is made, to FMCSA by close of business the same day by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via their individual password-protected National Registry web account. MEs would allow and encourage all drivers to review their information on the CMV Driver Medical Examination Results Form, MCSA–5850 to ensure the driver's personal information (name, address, driver's license number, etc.) are correct. The prompt and complete reporting to FMCSA by the MEs of the medical certification information will enable this information (for CMV drivers required to have a CDL or CLP) to be transmitted expeditiously to the SDLAs for posting on the CDLIS driver record for the driver involved. This will ensure that complete, up-to-date and accurate information about the medical certification status of such drivers is available to State and federal enforcement personnel, SDLAs, employers, drivers and others who rely on this information to ascertain whether a driver is in compliance with the applicable physical qualification standards and is able to operate a CMV safely. If the ME determined the non-CDL driver was physically qualified, they would complete the MEC, Form MCSA–5876, obtain the driver's signature, and provide the certificate to the driver (and a copy to the employer, if requested to do so).

In addition, FMCSA proposes to require all MEs to notify FMCSA if they have not performed any driver physical examinations during the previous month. The compliance date for this provision would coincide with the effective date of the final rule to enable FMCSA to monitor ME compliance with reporting requirements.

F. Motor Carriers

Motor carriers would no longer be required to verify the National Registry Number of the ME who issued a MEC to a driver required to have a CDL or a CLP by accessing the public information available on the National Registry. All certification information for such drivers would be provided to the SDLAs and posted as part of the driver record only by MEs listed on the National Registry. Motor carriers would still be required to obtain each driver's driver record from the SDLA which licensed the driver. The motor carrier would verify that the driver's status is ''medically certified'' and that the driver has the documentation for all medical variances (as defined in the **SUMMARY** section) noted on the MEC. For any CMV drivers who are not required to have a CDL, motor carriers would still have to verify that the ME was listed on the National Registry.

For drivers required to have a CDL or a CLP, motor carriers would no longer be permitted to rely on an original or copy of a MEC in the DQ file for the first 15 days after it is issued. The motor carrier would obtain the driver's medical information as part of the CDLIS MVR from the SDLA.

G. Implementation Date

In order to allow sufficient time for the SDLAs and FMCSA to develop and implement the necessary changes in their information systems to accomplish the proposed changes, FMCSA proposes to require that most of the proposed rules would take effect three years after the effective date of the final rule. The provisions requiring: (1) MEs to notify FMCSA if they have not performed any driver physical examinations during the previous month; (2) MEs to use the new MER Form, MCSA–5875; (3) the State to post the medical variance information (as defined in the SUMMARY section) provided by FMCSA, including the dates of issuance and expiration, to the CDLIS driver record within 1 business day of receipt for CLP and CDL drivers; (4) the State to update the medical status to ''not certified' when the medical certification is voided by FMCSA; and (5) MEs to use the prescribed form for the MEC would go into effect on the effective date of the final rule.

FMCSA proposes that beginning [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], MEs be required to report the results of all commercial drivers' physical examinations to FMCSA by

close of business on the day the examination is conducted (instead of once a month), by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via their individual password-protected National Registry web account. FMCSA would then transmit all of the information from the MEC electronically from the National Registry system to the SDLAs for CLP and CDL holders only. FMCSA is proposing 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. However, if the Agency finds that the States are ready earlier than expected the Agency may decide to shorten the proposed period and make this requirement before three years after the effective date.

VII. Section-by-Section

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

A. Proposed Changes to Part 383

Part 383 contains the requirements for CLPs and CDLs. With certain exceptions, the rules in this part apply to every person who operates a CMV in interstate, foreign or intrastate commerce, to all employers of such persons, and to all States.

Section 383.71(h). FMCSA proposes to change the requirement of a CLP or CDL applicant or holder who is required to obtain a MEC (no number assigned) from providing the State with an original or copy of the MEC (no number assigned) to FMCSA providing the State with the electronic MEC information.

Section 383.73(a)–(b). FMCSA proposes to change the requirement that the State must post the MEC (no number assigned) received from the CLP or CDL applicant or holder to the CDLIS driver record to the State posting the electronic MEC information received from FMCSA.

Section 383.73(o). FMCSA proposes to change the State requirement of posting the original or copy of the MEC (no number assigned) information to the CDLIS driver record within 10 calendar days after receipt to the posting of the electronic MEC, Form MCSA–5876, information to the CDLIS driver record within 1 business day after receiving the electronic information from FMCSA. The proposal would also add 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, it must change the driver's status on the CDLIS record to ''not certified'' and begin the process for downgrading the CDL or CLP. FMCSA also proposes to change the requirement that the State retain an original or copy of the MEC (no number assigned) for 3 years to a requirement that it retain an electronic record of the MEC, Form MCSA–5876, information for 3 years.

While the American Association of Motor Vehicle Administration's ''Commercial Driver's License Information System State Procedures Manual,'' Release 5.2.0, February 2011 requires the State to post the medical variance information (as defined in the **SUMMARY** section) provided by FMCSA, including the dates of issuance and expiration, and was previously incorporated by reference in § 384.105 of this chapter, FMCSA proposes to also include this requirement in paragraph (o) along with the MEC, Form MCSA–5876, information posting requirement as a reminder to the States. This proposed requirement would be effective immediately because States are already required to post this information. FMCSA also proposes to reduce the time the State has to post the medical variance information (as defined in the **SUMMARY** section) received from FMCSA to the CDLIS driver record from within 10 calendar days to 1 business day of receipt since the information will be sent electronically.

FMCSA proposes a new requirement that the State must also update the medical status to ''not certified' when the medical certification is voided by FMCSA.

B. Proposed Changes to Part 384

Part 384 contains the requirements to ensure that the States comply with the provisions of section 12009(a) of the Commercial Motor Vehicle Safety Act of 1986 (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 22 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 proposes an administrative amendment to this section to include driver medical certification recordkeeping requirements for CLP applicants in Part 383.

Section 384.301. FMCSA proposes to amend 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 new legislation and modify State systems to comply with the new requirements, including CDLIS. New paragraph (i) would specify the 3 year compliance date for States.

C. Proposed 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 proposes 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). The rule would eliminate the requirement for the motor carrier to verify and document in the DQ file that a CDL driver was certified by an ME listed on the National Registry. Employers will no longer need to verify that the driver examination was performed by an ME listed on the National Registry by FMCSA, because that information will be sent to the SDLAs from the National Registry. Motor carriers will still be required to meet this requirement for non-CDL drivers.

Section 391.41(a)(2). 3 years after the effective date of the final rule, FMCSA proposes to eliminate the provision allowing drivers required to have a CDL or a CLP to carry a current MEC (no number assigned) for 15 days.

Section 391.43. FMCSA proposes eliminating the Instructions for Performing and Recording Physical Examinations section in § 391.43(f) to eliminate redundant or unnecessary requirements. The Instructions section contains information found elsewhere in FMCSA guidance and information that health care practitioners must be knowledgeable of in order to be licensed, registered or certified by their States to perform physical examinations. FMCSA proposes revising the MER Form in § 391.43(f) to make the driver's health history information more comprehensive, streamline the format, strengthen the efficiency of frequently used clinical processes and tools for performing driver physical examinations, expand the ME determination section, add a statement for ME signature, add a National Registry Number, and add a section for amending the ME determination.

FMCSA proposes in 391.43(g)(2) that, beginning 3 years after the effective date of the final rule, MEs would no longer

be required to provide the MEC, Form MCSA–5876, to drivers required to have a CDL or CLP (and their employers) because the MEC information would be promptly and accurately transmitted electronically to the SDLAs for entry on the CDLIS driver record. But the ME would still provide the MEC, Form MCSA–5876, to non-CDL drivers (and requesting employers), as currently required.

FMCSA proposes to insert two new paragraphs in 49 CFR 391.43(g). The first one, new paragraph (g)(3), would require 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 would then invalidate any MECs previously issued to the driver that are contained in the Agency's records. The second one would require 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 be no longer valid and the driver will be required to obtain a new examination in order to obtain a MEC, Form MCSA–5876.

FMCSA proposes in 391.43(g)(5)(A)(ii) (renumbered from (g)(3) because of the two new paragraphs proposed above) 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 the close of the same business day. As indicated above, FMCSA may shorten this period if the States are ready before 3 years to begin receiving medical certification for drivers required to have a CDL or CLP.

FMCSA proposes in 391.43(g)(5)(B) to 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 proposes to revise 391.43(h) to require MEs to use the MEC, Form MCSA–5876, and will seek approval under the Paperwork Reduction Act for its use. (See the Regulatory Analysis section below.) Only minor editorial edits have been made to the form for clarity. The information required to be entered on the certificate is unchanged from the information required under the current regulation.

Section 391.45. FMCSA proposes to add a new paragraph at the end of this section that would require 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. FMCSA proposes in 391.51(b)(7) to eliminate the exception that allows the motor carrier to use a MEC (no number assigned) as proof of medical certification in the DQ file, because States would be required to load medical certification information into the driver's record within one business day of receipt from FMCSA.

VIII. Regulatory Analyses

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

FMCSA has determined this proposed 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 estimated cost of the proposed rule is not expected to exceed the $100 million annual threshold for economic significance. The Agency expects this proposed rule to generate net cost savings because of reduced annual paperwork burden hours compared to the current information collection activity (IC). The motor carriers and SDLAs affected will benefit from a decrease in annual burden hours and economic expenditures that will more than offset the burden increase for MEs.

FMCSA proposes to transmit MEC information electronically from the National Registry system to the SDLAs for CLP and CDL drivers. The Agency will also transmit medical variance information (as defined in the **SUMMARY** section) for all CMV drivers electronically to the SDLAs.

The MEC information would originate with the ME. The ME would perform a driver physical examination and record the results on a MER Form, MCSA–5875. The ME would enter the MEC information on to the CMV Driver Medical Examination Results Form, MCSA–5850, and submit it to the National Registry via the ME's password-protected web account by close of business the same day. For CMV drivers required to have CDLs or (after July 8, 2014) CLPs, FMCSA would then be able to promptly transmit to the SDLAs the drivers' MEC information for entry on the CDLIS driver records.

1. Summary of Estimated Costs

The Agency expects this proposed rule to generate net cost savings because of the reduced annual paperwork burden hours on the current IC. The additional cost this proposed rule would impose would result from the ME entering the CMV Driver Medical Examination Results Form, MCSA–5850, data more frequently into the National Registry System, as detailed in the revised Medical Qualifications Requirements Supporting Statement (Office of Management and Budget (OMB) Control Number 2126–0006) posted in the docket. This annual cost is very minimal in the amount of $455,994 (25,333 additional data entry annual burden hours × $18.00 per hour (includes benefits) for ME administrative personnel to perform data entry.) Another potential cost may be SDLAs' IT upgrades to connect to the National Registry database; however, the Agency is unable to estimate and quantify that potential cost at this time. The cost savings will be in the form of saving efficiencies through the electronic transmission of information.

2. Summary of Estimated Benefits

Potential quantifiable estimated benefits, as detailed in the revised Medical Qualification Requirements and the Commercial Driver Licensing and Test Standards (OMB control number 2126–0011) Supporting Statements-posted in the docket include: (1) Employers would no longer be required to verify the ME's National Registry number for CDL driver examinations because only MEs listed on the National Registry will be able to forward MEC information to the National Registry. MEs will encourage drivers to review and correct MEC information to ensure accurate information is recorded. This will result in $4.22 million in a cost savings to employers (221,904 annual burden hours × $19.00 per hour (including benefits)); (2) CMV drivers will save time by not having to provide their MEC to the SDLAs. By sending the MEC and variance information (as defined in the **SUMMARY** section) electronically FMCSA is creating a cost savings for drivers of $2.17 million (4,623,000 MECs × $0.47 postage to

SDLAs);[4] (3) SDLAs would save 205,333 annual burden hours of administrative time recording MEC information for not having to attend to the driver above, resulting in $3.69 million (205,333 annual burden hours × $18.00 per hour (including benefits)) in cost savings. As a result, this proposed rule will generate $10.1 million in overall cost savings.

Although the safety benefits of this rule are difficult to fully quantify, the Agency believes that the fraud prevention in electronic transmission of MEC and medical variance information (as defined in the **SUMMARY** section) will continue to improve safety on public roads. Continuing to leave the responsibility to drivers would create a potential for fraud, as it would provide an opportunity for the driver to forge or alter the MEC or medical variance information (as defined in the **SUMMARY** section). Prompt and complete reporting to FMCSA by the MEs would allow the information to be transmitted expeditiously to the SDLAs for posting on the CDLIS driver record for CDL and CLP drivers. As a result, up-to-date and accurate information concerning the medical certification status of such drivers would 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, by using the new MER Form, MCSA–5875, FMCSA believes that MEs will be able to determine more correctly whether CMV drivers meet the physical qualification standards contained in 49 CFR 391.41(b). The MER Form, MCSA–5875, removes the advisory criteria (guidance) contained in the current form that has been sometimes confused with regulatory standards; contains evaluation tools that align more precisely with the qualification standards and the Agency's advisory criteria and 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 form will help ensure that the physical condition of CMV operators is adequate to enable them to operate CMVs safely. Because the implementation of the National Registry program is just beginning, FMCSA does not have sufficient data at this time to quantify the expected safety benefits from adoption of the new 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.[5] 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 proposed rule is not expected to have a significant economic impact on a substantial number of small entities. Consequently, I certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

An Initial Regulatory Flexibility Analysis (IRFA), which must accompany this NPRM, must include six components. See 5 U.S.C. 603(b) and (c). The Agency has listed these components and addresses each section with regard to this NPRM.

1. A description of the reason why action by the Agency is being considered.

In order to alleviate manual entry of data by the SDLAs and to provide authorized State and Federal enforcement officials the most current and accurate information regarding the medical status of the CMV driver, FMCSA proposes to require MEs to begin using a newly developed MER Form, MCSA–5875, in place of the current MER Form. In addition, MEs would be required to report results of all driver physical examinations to FMCSA by close of business the day the examination is conducted by completing a CMV Driver Medical Examination Results Form, MCSA–5850, via their individual password-protected National Registry web account. FMCSA also proposes to transmit information from the MEC electronically from the National Registry to the SDLAs for CMV drivers who hold or apply for CLPs or CDLs and are required to be medically certified. It is also transmitting medical variance information (as defined in the **SUMMARY** section) for such drivers electronically to the SDLAs.

2. A succinct statement of the objectives of, and legal basis why action by the Agency is being considered.

The Agency's Medical Examiner's Certification Integration Rule is a follow-on rule that strengths and modifies the rules adopted in both the National Registry of Certified Medical Examiners published on April 20, 2012 (77 FR 2410) and the Medical Certification Requirements as Part of the CDL rule (Med-Cert rule) published on December 1, 2008 (73 FR 73096). It proposes to expedite transmission of the medical examination information to FMCSA by MEs, FMCSA would then promptly and accurately transmitted this information to the SDLAs electronically (for drivers required to have a CDL) to be entered into the appropriate CDLIS driver records. This rule is the third element of an initiative to improve the driver qualification and medical examiner certificate process. In addition, electronic transmission of the information will improve safety on public roads by decreasing the risk of fraud by CMV drivers and providing authorized State/Federal enforcement officials access to current and accurate medical status of CMV drivers during inspections.

3. A description and, where feasible, an estimate of the number of small entities to which the proposed rule would apply.

States have distinctive guidelines on who can perform physical examinations of commercial drivers, which vary among states for the purpose of certifying or non-certifying CDL drivers for this proposal, Federal regulations enable any of the following health-care professionals, including others, to conduct the CMV driver examination provided they are licensed, registered, or certified by the State(s) to conduct physical examinations: Medical Doctor (MD), Doctor of Osteopathy (DO), Physician Assistant (PA), Advanced Practice Nurses (APN) and Doctors of Chiropractic (DC). Once a year the Department of Labor's Bureau of Labor Statistics (BLS) publishes total annual employment figures based on their National Occupational Employment and Wage Estimates.[6] Therefore, the Agency

[4] OMB control number 2126–0011 Medical Qualification Requirements due to expire July 31, 2015. The number of medical certificates 4,623,000 issued per year by MEs × $0.47 ($0.05 copy + $0.42 postage) = $2,172,180.

[5] Regulatory Flexibility Act (5 U.S.C. 601 et seq.) see National Archives at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/601.html*

[6] U.S. Department of Labor, Bureau of Labor Statistics (BLS). *May 2008 National Occupational Employment and Wage Estimates.* Available online

estimates that this rule would impact approximately 40,000 health-care professionals expected to be listed on the National Registry. (see National Registry of Certified Medical Examiners 77 FR 24104, April 20, 2012).

The Small Business Administration's threshold to qualify as a small business fluctuates between $10 million or less in revenue for physician-owned businesses to $7 million in revenue for APN and PA owned companies. As such, FMCSA considers all of the medical professionals as small entities.

4. A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to requirements and the type of professional skills necessary for preparation of the report or record.

The ME will be required to fill out the MER Form, MCSA–5875, with examination findings and the CMV Driver Medical Examination Results Form, MCSA–5850, with the driver examination results. The skills required to fill out these forms are basic office and computer proficiency skills.

5. Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

The Agency did not identify any Federal rules that duplicate, overlap or conflict with the rule.

6. A description of any significant alternatives to the proposed rule which minimize any significant impacts on small entities.

The Agency did not identify any significant alternatives to the rule that could lessen the burden on small entities without compromising its goals or the Agency's statutory mandate. Because small businesses are such a large part of the demographic the Agency regulates, providing alternatives to small businesses for non-compliance with FMCSA regulations or providing alternative compliance options is not feasible and not consistent with sound public policy.

C. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, Elaine Papp, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed 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 employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding 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 proposed rule would have very minimal costs that would 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 $143.1 million (which is the value of $100 million in 2010 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 proposal would not have substantial direct costs on or for States, nor would 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 proposed 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 proposed 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 proposed 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

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does require the collection of personally identifiable information (PII). 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 proposed 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.

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 NPRM contains the following new IC requirements. As required by the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), FMCSA submitted the information requirements associated with the proposal to the OMB for its

at *http://www.bls.gov/oes/current/_oesnat.htm#b29-0000*. 2008.

review. This proposed 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.

Once the National Registry is implemented beginning May 21, 2014, as discussed in the final rule (77 FR 24104; April 21, 2012), MEs will start to electronically submit MEC information to the National Registry on a monthly basis. The Medical Examiner's Certification Integration Rule proposes that the information be submitted by the ME at the close of business the day the examination is conducted as opposed to submitting monthly batched reports. In addition, it proposes that FMCSA will electronically transmit examination information to the SDLAs, providing more accurate and timely delivery of information to update CDLIS driver records and for safety enforcement purposes. The requirements imposed on CMV drivers and employers for this IC are being considered. The estimate of the number of CMV drivers (respondents) covered by this IC includes both interstate drivers subject to the FMCSRs and intrastate drivers 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. 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 extreme risks to the public.

FMCSA analyzed this rule and determined that its implementation will decrease the currently approved IC burden hours covered by OMB Control No. 2126–006, titled ''Medical Qualification Requirements,'' and OMB Control No. 2126–0011, titled ''Commercial Driver Licensing and Test Standards.'' 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 attachments, which are in the public docket for this rulemaking.

CURRENT AND FUTURE INFORMATION COLLECTION BURDENS

OMB Approvals No.	Currently approved annual burden hours	Future change in annual burden hours	Proposed annual burden hours for IC activities in year 4 and subsequent years
2126–0006	2,130,702	(196,571)	1,934,131
2126–0011	1,682,582	(205,333)	1,423,249
Totals	3,813,284	(401,904)	3,357,380

2126–0006 Medical Qualification Requirements.

This IC is currently due to expire on July 31, 2015. This revision is due to the Agency's development of the rules proposed in this NPRM. It proposes to change the State requirement of posting the original or copy of the MEC information to the CDLIS driver record within 10 calendar days of receipt to the posting of the electronic MEC information to the CDLIS driver record within 1 business day. In addition, the proposed rule would eliminate the requirement for the CMV drivers to provide their MEC to their SDLAs. It would also eliminate the requirement for motor carriers to verify that their CDL drivers were certified by an ME on the National Registry.

The current and proposed IC activities imposed on the MEs and motor carriers over the first 3 years of implementing the proposed electronic transmission of MEC information from the ME to the SDLAs would remain unchanged. This would allow time for those States that need to pass legislation and for all States to make the necessary system upgrades, before the proposed electronic transmission of MEC information from the ME, through the National Registry System, to the SDLA for update on the CDLIS driver's record will be implemented in each State and the District of Columbia. The table below details the IC activities incurred by the ME and motor carriers for the current and proposed first 3 years, along with IC activities in Year 4 and subsequent years.

Current and proposed IC activities for MEs and motor carriers	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 year 4th and subsequent years
MER, Medical Examination Results Form, and the MEC	1,695,000	1,695,000	1,695,000
Resolution of Medical Conflict	11	11	11
SPE	192	192	192
Vision Exemption	727	727	727
Diabetes Exemption	600	600	600
ME Application	1,111	1,111	1,111
ME Test Results	1,111	1,111	1,111
CMV Driver Examination Data	123,575	123,575	148,908
MER and MEC Copies	175	175	175
Verification of National Registry Number	308,200	308,200	86,296
Total Burden Hours	2,130,702	2,130,702	1,934,131

FMCSA estimates that the number of times per year that respondents would provide CMV driver examination results information would increase from a minimum of 12 times per year to an average of 50 times per year. MEs would file 4,623,000 MECs per year (unchanged). It is projected that 40,000 MEs (unchanged) will be needed to perform the 4,623,000 CMV driver medical examinations required annually. The transmission of CMV driver examination information will require approximately 71,858 hours of ME administrative personnel time on a yearly basis [40,000 registered MEs × 1 minute/60 minutes to file a report × 50 reports per year + 4,623,000 reports × 30 seconds/3600 seconds to enter each driver's examination data elements = 71,858 hours]. This is an increase of 25,333 burden hours per year.

In addition, verification for CDL drivers will not be required, because FMCSA will provide medical certification information to the states only from MEs who are listed on the National Registry. Motor carriers will verify the National Registry Number for an estimated 1,294,440 non-CDL drivers who are medically certified per year (a decrease from 4,623,000 CDL and non-CDL drivers medically certified per year). It is estimated it will take motor carrier administrative personnel 4 minutes to verify the National Registry Number, write a note regarding the verification, and file the note in the DQ file, so this will require approximately 86,296 hours of administrative personnel time on a yearly basis [1,294,440 verifications × 4 minutes/60 minutes per verification = 86,296 hours]. This is a decrease of 221,904 annual burden hours per year.

FMCSA estimates that the Medical Examiner's Certification Integration Rule would decrease the total estimated annual time burden to respondents for Medical Qualifications by 196,571 hours [(221,904) fewer hours for verification of non-CDL National Registry Number minus 25,333 additional hours to enter driver examination data elements]. The Medical Examiner's Certification Integration Rule would result in a total annual time burden to respondents for all medical requirement components of an estimated 1, 934,131 hours (2,130,702 current hours minus 196,571 fewer hours).

2126–0011 Commercial Driver Licensing and Test Standards. This IC is currently due to expire on August 31, 2014. This IC supports the DOT Strategic Goal of Safety by requiring that CLP and CDL holders driving CMVs subject to part 391 are properly licensed according to all applicable Federal requirements. The information being collected ensures that CLP and CDL holders are qualified to hold a CLP or CDL to operate CMVs, and that States are administering their CDL programs in compliance with the Federal requirements.

As proposed, the MEC and medical variance information (as defined in the **SUMMARY** section) for CLP and CDL drivers would be transmitted electronically by FMCSA to the SDLA and posted to the CLP or CDL holder's CDLIS driver record. This would eliminate 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 would 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 (as defined in the **SUMMARY** section) from FMCSA and to the CDLIS driver record. The information technology necessary to carry out these transactions are still in the early development stage. Therefore, FMCSA cannot make any cost estimates at this time. FMCSA welcomes any comments on estimated costs to develop this capability.

Starting in the 4th and subsequent years, there would be a proposed decrease in total annual burden hours due to the implementation of the new program change. With medical certification and medical variance information (as defined in the **SUMMARY** section) being sent electronically to the SDLA by FMCSA to 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 205,333 hours to 0 hours based on the medical variance information being electronically sent through the National Registry to the SDLA by FMCSA and electronically posted to the CDLIS driver record. If the medical variance information (as defined in the **SUMMARY** section) continues to be sent by email there would be minimal burden hours associated with this task therefore, FMCSA has not attempted to quantify it. The following table summarizes the annual information collection 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 1,628,582 hours for the first 3 years remains unchanged. The decrease in proposed total annual burden of 205,333 hours in subsequent years is due to the program changes from implementing the new requirement.

Current and proposed IC activities for States and CDL drivers	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 year 4th and subsequent years
State recording of medical examiner's certification and medical variance information on CDLIS driver record	205,333	205,333	0
State recording of the self-certification of CMV operation on CDLIS driver record	3,984	3,984	3,984
State verification of the medical certification status of all interstate CDL holders	2,593	2,593	2,593
Driver to notify employer of convictions/disqualifications	640,000	640,000	640,000
Driver to complete previous employment paperwork	403,200	403,200	403,200
States to complete compliance certification documents	1,632	1,632	1,632
States to complete compliance review documents	2,400	2,400	2,400
Data/document checks and CDLIS recordkeeping	212,224	212,224	212,224
Drivers to complete the CLP/CDL application	48,000	48,000	48,000
CDL tests recordkeeping	84,000	84,000	84,000
Knowledge and skills test examiner certification	25,216	25,216	25,216
Skills test examiner monitoring and auditing	0	0	0

Current and proposed IC activities for States and CDL drivers	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 year 4th and subsequent years
Total Burden Hours	1,628,582	1,628,582	1,423,249

L. National Environmental Policy Act and Clean Air Act

FMCSA analyzed this NPRM 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 proposals in this rule are covered by these two CEs and the proposed 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. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed 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.

N. 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.

O. 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 proposes to amend title 49 CFR, Code of Federal Regulations, 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 CDL holder.* Before [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 CDL holder.* On or after [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 49 CFR 383.71(b)(1)(ii) to the CDLIS driver record;

(B) Post the information from the medical examiner's certificate within 1 business day 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 within 1 business day to the CDLIS driver record, including:

(*1*) Date of medical variance issuance; and

(*2*) Expiration date of medical variance;

(D)(*1*) 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*)(*i*) *Status update.* Until the day before [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE

OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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) On or after [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 or medical variance was removed or rescinded, the State must:

(A)(*1*) Before [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE] 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE] 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 of this chapter, or the driver changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State).

(B) [Reserved]

(ii) [Reserved]

* * * * *

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

■ 5. 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.

■ 6. 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) of this chapter.

■ 7. 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 [INSERT THE EFFECTIVE DATE OF THE FINAL RULE] as soon as practical, but, unless otherwise specifically provided in this part, not later than [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

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

■ 8. The authority citation for part 391 will continue 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.

■ 9. Amend § 391.23 by revising paragraph (m)(2) to read as follows:

§ 391.23 Investigation and inquiries.

* * * * *

(m) * * *

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

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

(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 [INSERT THE EFFECTIVE DATE OF THE FINAL RULE*],* 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 [INSERT THE EFFECTIVE DATE OF THE FINAL RULE], 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, 2014, 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.* Until [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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) [Reserved]

■ 10. 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 January 30, 2014 and ending on the day before [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 permitted to carry on his or her person the medical

examiner's certificate specified at § 391.43(h).

* * * * *

■ 11. 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

Form MCSA-5875 (Revised: 04/01/2013) 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 for this collection of information is estimated to be approximately 20 minutes 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 Officer, Federal Motor Carrier Safety Administration, MC-RRA, 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 31136(a)(8) and 31149(c)(1)(E).
PURPOSE: To record results of a driver's physical examination to determine qualification to operate a commercial motor vehicle (CMV) 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.
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 82171), 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: ___ Gender: ○ M ○ F

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

Driver License Number: _____ State of Issue: ____ Intrastate Only? ○ Yes ○ No CDL*? ○ Yes ○ No Driver ID Verified By**: _____

Has your USDOT/FMCSA medical certificate ever been denied or issued for less than 2 years? ○ Yes ○ No

DRIVER HEALTH HISTORY

Do you have or have your ever had:	Yes	No		Yes	No
1. Head/brain injuries or illnesses *(e.g., concussion)*	○	○	16. Dizziness, headaches, numbness, tingling, or memory loss	○	○
2. Seizures, epilepsy	○	○	17. Unexplained weight loss	○	○
3. Eye problems *(except glasses or contacts)*	○	○	18. Stroke, mini-stroke (TIA), paralysis, or weakness	○	○
4. Ear and/or hearing problems	○	○	19. Missing or limited use of arm, hand, finger, leg, foot, toe	○	○
5. Heart disease, heart attack, bypass, or other heart problems	○	○	20. Neck or back problems	○	○
6. Pacemaker, stents, implantable devices, or other heart procedures	○	○	21. Bone, muscle, joint, or nerve problems	○	○
7. High blood pressure	○	○	22. Blood clots or bleeding problems	○	○
8. High cholesterol	○	○	23. Cancer	○	○
9. Chronic cough, shortness of breath, or other breathing problems	○	○	24. Chronic infection or other chronic diseases	○	○
10. Lung disease *(e.g., asthma)*	○	○	25. Problems staying awake, loud snoring	○	○
11. Kidney problems, kidney stones, or pain/problems with urination	○	○	26. Sleep apnea	○	○
12. Stomach, liver, or digestive problems	○	○	27. Have you ever had a sleep test *(e.g., sleep apnea)*?	○	○
13. Diabetes or blood sugar problems	○	○	28. Have you ever spent a night in the hospital?	○	○
14. Anxiety, depression, nervousness, other mental health problems	○	○	29. Have you ever been treated for mental health problems?	○	○
15. Fainting or passing out	○	○	30. Have you ever had a broken bone?	○	○
31. Have you ever had surgery? If "yes," please list and explain below.	○	○	32. Other health condition(s) not described above	○	○
33. Are you currently taking medications *(prescription, over-the-counter, herbal, diet supplements)*? If "yes," please describe below.	○	○	34. Did you answer "yes" to any of questions 1-30? If so, please comment further on those health conditions below.	○	○

(Attach additional sheets if necessary)

*CDL Yes/No: Commercial driver's license (CDL) means a license issued to an individual by a State or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR part 383, which authorizes the individual to operate a class of a commercial motor vehicle. CDL includes a commercial learner's permit (CLP). Check yes if the person is a CDL holder or is applying to become a CDL holder.

**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.

Form MCSA-5875 (Revised: 04/01/2013)

Last Name: _____ First Name: _____ Middle Initial: ____ Date: _____ Page 2

DRIVER LIFESTYLE QUESTIONS

	Yes	No		Yes	No
35. Have you ever used or do you now use tobacco?	○	○	37. Have you used an illegal substance within the past 2 years?	○	○
36. Do you currently drink alcohol?	○	○	38. Have you ever failed a drug test or been dependent on an illegal substance?	○	○

DRIVER SIGNATURE

A driver is expected to provide the medical examiner with an accurate and complete medical history, as indicated in this Form that is part of 49 CFR 391.43. A driver who provides fraudulent or intentionally false information is in violation of 49 CFR 390.35, and would be subject to the penalties under 49 CFR 390.37.

Driver's Signature: _____ Date: _____

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

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)

TESTING

Last Name: _____ First Name: _____ Middle Initial: ____ Height: ___ *feet* ___ *inches* Weight: ____ *pounds*

Neck circumference *(optional)**: ___ *inches* BMI *(optional)**: ___ Pulse rate: _____ Pulse rhythm regular: ○ Yes ○ No

**(Please note that a neck circumference greater than 17" for men/16" for women OR a body mass index greater than 33 are both risk factors for sleep apnea.)*

Blood Pressure	Systolic	Diastolic
Sitting		
Second reading (optional)		

Urinalysis	Sp. Gr.	Protein	Blood	Sugar
Urinalysis is required. Numerical readings must be recorded.				

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

Other testing if indicated *(e.g., A1C, EKG; see FMCSA guidance)*

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/____	

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

Hearing

Standard: Must first perceive whispered voice at greater 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): _____

Form MCSA-5875 (Revised: 04/01/2013)

Last Name: _____ First Name: _____ Middle Initial: ____ Date: _____ Page 3

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 if the body system is normal, or if there are any abnormalities. 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. If organic disease is present, note if it has been compensated for.

Body System	Normal	Abnormal	Body System	Normal	Abnormal
1. General	○	○	8. Abdomen	○	○
2. Skin	○	○	9. Inguinal hernia *(male only)*	○	○
3. Eyes	○	○	10. Back	○	○
4. Ears	○	○	11. Extremities/joints	○	○
5. Mouth/throat	○	○	12. Spine	○	○
6. Heart	○	○	13. Neuro/reflexes	○	○
7. Lungs/chest	○	○	14. Gait	○	○

Impressions:

(Attach additional sheets if necessary)

MEDICAL EXAMINER DETERMINATION

○ Meets standards in 49 CFR 391.41; qualifies for 2-year certificate

○ Does not meet standards *(explain why)*: _____

○ Meets standards, but periodic monitoring required *(due to)*: _____

Driver qualified for: ○ 3 months ○ 6 months ○ 1 year ○ other: _____

☐ Wearing corrective lenses ☐ Wearing hearing aid

☐ Accompanied by a waiver/exemption *(Driver must present exemption certificate at time of certification)*

☐ Accompanied by a Skill Performance Evaluation (SPE) certificate

☐ Driving within an exempt intracity zone *(see 49 CFR 391.62)*

☐ Qualified by operation of 49 CFR 391.64

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: _____ Date: _____

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

Medical Examiner's License or Certificate Number: _____ ☐ MD ☐ DO ☐ Physician Assistant ☐ Chiropractor

State issuing License or Certificate: _____ ☐ Advanced Practice Nurse ☐ Other Practitioner

National Registry Number: _____ Medical Certificate Expiration Date: _____

Determination pending *(specify reason)*: _____

Return to medical exam office for follow-up on *(must be 45 days or less)*: _____

Comment on reasons for amendment: _____

(if amended) Medical Examiner Signature: _____ Date: _____

BILLING CODE C

(g) * * *

(2) (i) Until the day before [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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).

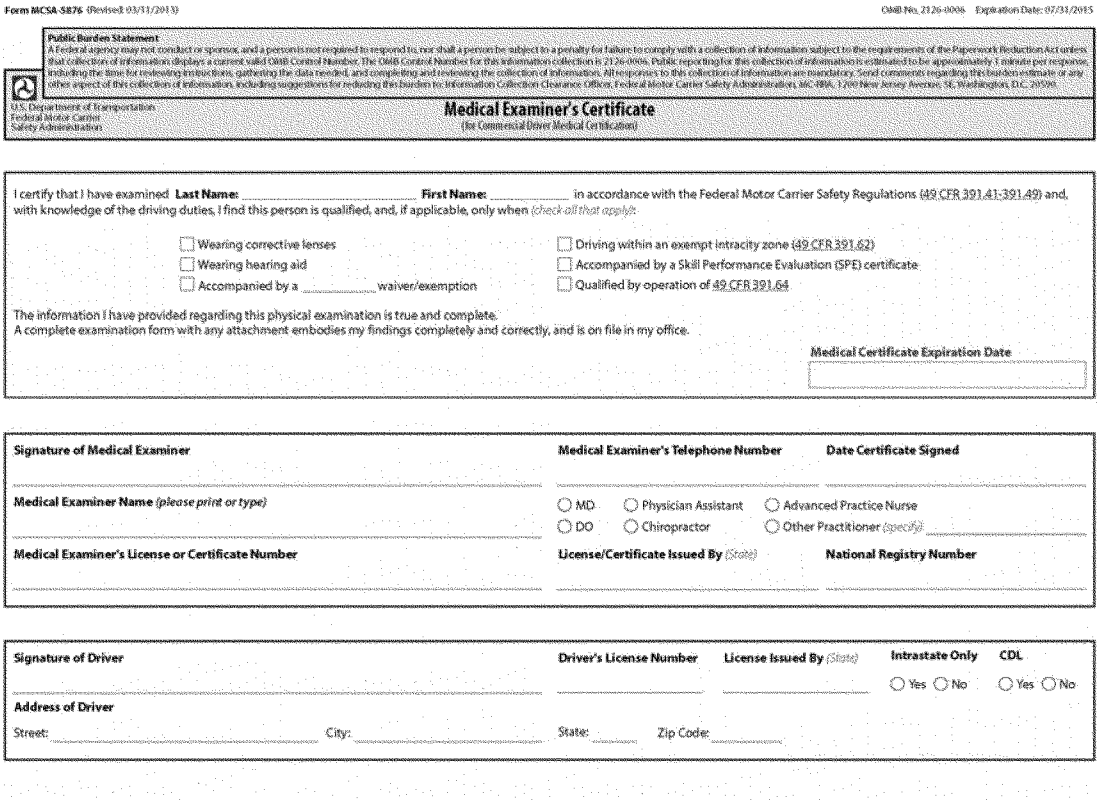
(4) Beginning [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], if the medical examiner finds that the determination of whether the person examined is physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b) should be delayed pending the receipt of additional information or the conduct of further examination in order for the medical examiner 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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, Medical Examiner Submission of CMV Driver Medical Examination Results. 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE] by close of business on each day during which 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 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, Medical Examiner Submission of CMV Driver Medical Examination. The Form must include all information specified for each medical examination conducted for each driver.

(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 03/31/2013) OMB No. 2126-0006 Expiration Date: 07/31/2015

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 be 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 the 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-RRA, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.

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

Medical Examiner's Certificate
(for Commercial Driver Medical Certification)

I certify that I have examined **Last Name:** _____ **First Name:** _____ in accordance with 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)*:

- ☐ Wearing corrective lenses
- ☐ Wearing hearing aid
- ☐ Accompanied by a _____ waiver/exemption
- ☐ Driving within an exempt intracity zone (49 CFR 391.62)
- ☐ Accompanied by a Skill Performance Evaluation (SPE) certificate
- ☐ Qualified by operation of 49 CFR 391.64

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 Certificate Expiration Date

Signature of Medical Examiner | **Medical Examiner's Telephone Number** | **Date Certificate Signed**

Medical Examiner Name *(please print or type)*

○ MD ○ Physician Assistant ○ Advanced Practice Nurse
○ DO ○ Chiropractor ○ Other Practitioner *(specify)* _____

Medical Examiner's License or Certificate Number | **License/Certificate Issued By** *(State)* | **National Registry Number**

Signature of Driver | **Driver's License Number** | **License Issued By** *(State)* | **Intrastate Only** ○ Yes ○ No | **CDL** ○ Yes ○ No

Address of Driver
Street: _____ City: _____ State: _____ Zip Code: _____

* * * * *

■ 12. 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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.

■ 13. 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, 2014 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, 2014 and until [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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 [INSERT DATE 3 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], 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).

* * * * *

Issued under the authority delegated in 49 CFR 1.87 on: May 2, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–11080 Filed 5–9–13; 8:45 am]

BILLING CODE P