

Information Collection Clearance

The Supporting Statement

Medical Qualification Requirements

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) is submitting to the Office of Management and Budget (OMB) a revised information collection (IC) titled, “Medical Qualification Requirements,” covered by OMB Control Number 2126-0006, and currently due to expire on December 31, 2006. The Agency revised this IC due to its development of a notice of proposed rulemaking (NPRM) titled, “*Medical Certification Requirements as part of the CDL*” (MedCert-CDL NPRM) (see Attachment A). The NPRM would require that: 1) interstate CDL drivers subject to 49 CFR part 391 (see Attachment B) provide the State with an original or copy of their medical certificate so that this information can be recorded in the State’s driver license information system, accessible through Commercial Driver License Information System (CDLIS), before the initial issuance, renewal, transfer or upgrade of the CDL; and 2) all commercial motor vehicle (CMV) drivers operating in interstate commerce (both CDL and non-CDL) who are subject to part 391 provide motor carriers with a copy of any FMCSA-issued exemption or skills performance evaluation (SPE) certificate¹ granted to the drivers.

Once FMCSA’s proposed requirements in the MedCert-CDL NPRM are fully implemented (3 years after the publication date of a final rule on this subject), interstate CDL holders would no longer be required to carry a copy of the medical certificate on his or her person; and the employing carrier would no longer be required to maintain a copy of interstate CDL holders’ medical examiner’s certificate in the drivers’ qualification files. Medical certification data for all interstate CDL drivers would only be maintained by the State Driver License Agencies (SDLAs) and the employing motor carrier could obtain the information when it makes an inquiry to the State for the driver’s CDLIS motor vehicle record.

Part A. Justification.

1. Circumstances that make the collection of information necessary:

Because commercial motor vehicles, as defined in 49 CFR 390.5 (see Attachment C) , are larger and heavier than passenger cars and more difficult to maneuver in traffic, drivers of these vehicles are required to meet certain qualification standards, including physical qualifications standards. Not only does it take a skilled driver to operate CMVs safely, but it takes a physically and mentally fit driver to do so as well. Information on driver’s medical fitness must be

¹ CDL drivers subject to part 391 are already required to provide the employing motor carrier with a copy of the SPE certificate so it can be retained in the motor carrier’s file for a period of 3 years after the driver’s employment has terminated. The driver is also required to have the SPE certificate (or a legible copy) in his or her possession whenever on duty. See 49 CFR 391.49(j)(1). Thus, the SPE information collection activities are not new for purposes of complying with the Paperwork Reduction Act (44 U.S.C. 3501-3520) and the burden hour estimates for them will not change as a result of the requirements set forth in the MedCert-CDL NPRM.

collected to enable Federal and State motor carrier safety enforcement officials to verify that each CMV driver has passed a physical examination at least once every two years. FMCSA is the Federal government agency that is authorized to require the collection of this information, and the authorizing regulations are located at 49 CFR part 391.

FMCSA provides medical standards at 49 CFR 391.41 that are applicable to almost all CMV drivers in interstate commerce, with the exception of drivers of migrant workers (who must meet the medical standards at 49 CFR 398.3), or are otherwise excepted. The regulations concerning recordkeeping for driver's medical certifications are found at 49 CFR 391.43, which specifies that a medical examination be performed on all CMV drivers operating in interstate commerce. The results of the examination must be recorded in accordance with the requirements set forth in this section.

If the physician for the driver and the physician for the motor carrier disagree about the physical qualification of a driver, 49 CFR 391.47 (Resolution of Conflicts of Medical Evaluation) provides a process for resolving the conflict. The driver or carrier must obtain an opinion from an impartial medical specialist in the field in which the medical conflict arose. The impartial medical specialist provides a medical opinion that is agreed to by both the driver and motor carrier. If there is disagreement on the opinion/evaluation by either party, the provisions at 49 CFR 391.47 establish a procedure for submitting an application to the FMCSA for resolution of the medical conflict.

The provisions located at 49 CFR 391.51 and 398.3 (see Attachment D) require that a motor carrier retain the medical examiner's certificate in the driver's qualification file for 3 years. The certificate affirms that the driver is physically qualified to drive a CMV in interstate commerce.

Persons who are not physically qualified to drive under 391.41 due to a limb impairment must file an application for and be issued a skill performance evaluation certificate (formerly a limb waiver) in order to be considered qualified. This is specified at 49 CFR 391.49. The application must be submitted to the appropriate FMCSA service center in which the driver has legal residence. If the application is submitted jointly by the person (driver applicant) who seeks the SPE certificate and by the motor carrier who will employ the driver applicant, the application must be submitted to the FMCSA service center where the motor carrier's principal place of business is located. If the SPE certificate is granted by the FMCSA, the motor carrier must retain a copy of it in the driver's qualification file for 3 years. The SPE certificate is valid for 2 years (unless otherwise specified) and may be renewed.

Under 49 CFR 381.300 (see Attachment E), FMCSA provides procedures for persons to follow if they would like to request exemptions from the regulations. Without an exemption, individuals who do not meet the requirements in 49 CFR 391.41 would not be considered qualified to operate a CMV in interstate commerce. Generally, drivers who are granted exemptions are required to carry a copy of the exemption document with them at all times while operating a CMV in interstate commerce. The proposed MedCert-CDL rule would require employing motor carriers to maintain a copy of the exemption document in the driver's

qualification file. Currently, FMCSA operates vision and diabetes exemption programs. Therefore, if the MedCert CDL proposal is implemented as a final rule, employers of drivers that receive vision or diabetes exemptions would be required to maintain copies of the vision or diabetes exemption documents in the drivers' qualifications files.

This information collection supports the DOT Strategic Goal of Safety by ensuring that CMV drivers are medically qualified to operate trucks and buses on our nation's highways.

2. How, by whom, and for what purpose is the information used:

The public's interest in and right to have safe highways requires the assurance that drivers of complicated, modern CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's medical standards provide this assurance by requiring drivers to be medically examined and certified physically and mentally fit to drive.

Third-party requirements of this information collection are being considered since State laws are generally in substantial conformity with the Federal regulations for medical qualifications of commercial motor vehicle drivers. Consequently, the estimate of the number of CMV drivers (respondents) covered by this information collection reflects 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 mirror the Federal requirements to maintain their Motor Carrier Safety Assistance Program (MCSAP) funding (Federal grants provided by FMCSA to the States to adopt and enforce compatible safety regulations); therefore, we are including the information collection burden for intrastate drivers that are subject to States' compatible rules.

Interstate motor carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs) must ensure that all their drivers meet the physical qualifications standards under 49 CFR part 391. Individuals with limb impairments are permitted to operate CMVs for such carriers if they meet all the other requirements (rules that do not pertain to the functioning of the limbs) and are granted a SPE certificate by the FMCSA. FMCSA requires that this information be collected and maintained in drivers' qualifications files so that Federal and State motor carrier safety enforcement personnel can verify the physical qualifications of drivers and thereby ensure that public safety is not compromised.

The medical conflict application provision noted above provides a mechanism for drivers and motor carriers to have the FMCSA intervene to resolve conflicting medical evaluations. Under this provision, FMCSA would make a final decision on whether a driver should be medically certified by the medical examiner to operate a CMV in interstate commerce. This would resolve conflicting medical evaluations when either party does not accept the decision of an impartial medical specialist. Without the medical conflict application provision and its incumbent information-collecting requirements, an unqualified person could potentially be certified as being physically fit to operate a commercial motor vehicle in interstate commerce. Conversely, a qualified driver could be prevented from continuing his or her interstate driving career without

the medical conflict provision.

Under the regulations at 49 CFR part 391, medical examiners must complete a comprehensive form specified by FMCSA to document medical information about every driver they examine. This information enables FMCSA and its State partners to verify the physical qualifications of drivers by having independent medical experts review the examination results to ensure that there is a sound basis for the medical certificate – the medical certificate is used as proof the driver has been examined but it does not include the medical examiner’s notes, and evaluation results. If the information on the medical report were not required, there would be no means available to FMCSA to verify that medical certificates were properly issued and that drivers are truly qualified to operate CMVs in interstate commerce. The potential threat to public safety from unqualified drivers would be significant.

FMCSA may grant an exemption that relieves a person from the compliance with a regulation if the agency determines that the exemption is in the public interest and would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation. The information FMCSA collects under 49 CFR 381.310 is necessary for the Agency to make its determination on whether to grant an exemption to an applicant indicating that he or she would not need to comply with one or more of the FMCSRs.

The accompanying MedCert-CDL NPRM would require drivers (both CDL and non-CDL) who are subject to part 391, when operating a CMV in interstate commerce, to carry on his/her person at all times the CDL (if applicable) and the original or copy of any Federal exemption, waiver or certificate that was granted by FMCSA.

3. Extent of automated information collection:

Because FMCSA does not require carriers or drivers they employ to provide medical documents to FMCSA, “electronic collection of information” is not applicable and is, therefore, 0%, for purposes of this medical qualifications information collection.

The proposed MedCert-CDL rule would require SDLAs to record or enter into the CDLIS driver record of CDL holders subject to part 391 all of the information displayed on the medical examiner’s medical certificate. The medical examiner’s certificate would be maintained by the SDLA for 6 months from the date the driver provides a copy to the State. Because the medical examiner’s certificate information for interstate CDL holders would now be maintained by the SDLA, FMCSA would eliminate the requirement for motor carriers to keep a copy of the medical examiner’s certificate for CDL holder’s subject to part 391 in the driver qualification files they maintain because that information would be on the CDLIS MVR obtained by the motor carrier.

FMCSA estimates there are 3.1 million active interstate CDL holders² and that it takes a motor carrier one minute to make a copy of the medical certificate and file it in the driver's qualification (DQ) file. Therefore, the reduction in the annual time burden for employing motor carriers to retain and file a copy of the medical examiner's certificate for active interstate CDL drivers is estimated at **51,666 hours** (3.1 million active interstate CDL drivers x 1 minute per medical certificate/60 minutes per hour = 51,666 hours). However, in the MedCert-CDL NPRM, FMCSA would require the SDLAs to maintain a copy of the medical examiner's certificate for 6 months from the date the CDL driver provides a copy to the SDLA and it records information from the certificate onto the CDLIS motor vehicle record. Thus, the reduction in the information burden for employing motor carriers to retain a copy of the medical certificate and file it in the DQ file would then be offset by an increase in the burden for SDLAs to maintain and record the information in CDLIS. The paperwork burdens associated with the uploading of information into State driver licensing information systems which are accessible as part of CDLIS is captured in OMB Control Number 2126-0011.

Nothing in the current safety regulations prohibits the electronic storage and retrieval of the medical examiner's certificate by the employing motor carrier. Although a hard copy of the certificate must be signed by the medical examiner, the signed form may be scanned and stored electronically as provided in 49 CFR 390.31, "Copies of Records or Documents."³ See 49 CFR 391.51 and 383.3. Also, the existing regulations allow electronic storage and retrieval of the medical examination report if the driver provides this data to the motor carrier. FMCSA will continue to consider new information technology in an attempt to decrease the paperwork burden on motor carriers and medical examiners to collect this data.

4. Efforts to identify duplication:

FMCSA is the only Federal agency with the authority to establish minimum qualifications and hours-of-service requirements for CMV drivers operating in interstate commerce [49 U.S.C. 31136 and 31502]. FMCSA periodically reviews its safety regulations to eliminate obsolete and redundant provisions. The agency considers all comments submitted in response to its rulemaking notices which provide a forum for interested parties to identify any duplication of information collection requirements not previously acknowledged by the agency. Comments to the FMCSA's rulemaking dockets have revealed no duplication.

5. Efforts to minimize the burden on small businesses:

There are no additional burdens to small businesses for this information collection.

6. Impact of less frequent collection of information:

² See Item # 12 in OMB Control No. 2126-001, titled "Commercial Driver Licensing and Testing Standards," for a full explanation on how the Agency calculated this estimate of active interstate CDL drivers.

³ As noted above, the MedCert-CDL NPRM proposal would not require the employing motor carrier to retain and file the medical examiner's certificate in the DQ file for the interstate CDL holders. Once a final rule is implemented on this subject, proof of medical certification for the interstate CDL holders would then be obtained by the motor carrier when it receives a copy of the CDLIS MVR from the State.

If the medical examination of commercial drivers was conducted less frequently, it is likely that drivers whose medical condition has worsened would not be detected in time to prevent their being involved in an accident. A driver's physical or mental condition may worsen at any time. Vision and diabetes exemptions must be reviewed every 2 years to ensure that the granting of the exemption does not diminish safety under section 381.310. Also, SPE certificates must be renewed every 2 years to ensure that drivers with limp impairments continue to meet the applicable requirements. In the interest of highway safety, the medical examination and exemption and SPE renewals should not be performed less frequently.

7. Special circumstances:

There are no special circumstances associated with this information collection.

8. Compliance with 5 CFR 1320.8:

On July 31, 2001, FMCSA published a Notice of Intent to issue exemptions to insulin-using diabetic drivers (see Attachment (F)). The Notice of Intent discussed the regulatory history and research activity addressing the issue of diabetes and CMV operation. Comments received in response to the Notice of Intent are addressed in the Notice of Final Disposition (see Attachment (G)).

On September 3, 2003, the FMCSA announced in a Final Notice of Disposition that it will issue exemptions to certain diabetic drivers of CMVs from the diabetes mellitus prohibitions contained in 49 CFR 391.41(b)(3). Exemptions will be granted only to those applicants who meet specific conditions and comply with all the requirements of the exemption. Exemptions will be issued for a period of 2 years; after 2 years, those holding exemptions may reapply for another 2-year exemption period.

On November 8, 2005, the FMCSA announced its decision to revise the terms and conditions of its previous decision to issue exemptions to certain insulin-treated diabetic drivers of CMVs from the diabetes mellitus prohibitions contained in the FMCSRs. This action is in response to section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (see Attachment H). As a result of the implementation of section 4129 of SAFETEA-LU, individuals with insulin-treated diabetes mellitus who are applying for an exemption from the physical qualifications requirements are no longer required to submit proof of their driving experience operating a CMV while using insulin. Proof of driving experience would typically include letters of reference from the current and previous employers that the person was employed as a CMV driver, and an estimate of the number of hours the individual spent driving each week over a 3-year period. Therefore, the elimination of the 3-year driving experience requirement has resulted in a significant reduction in the information burden associated with applying for a diabetes exemption.

9. Payments or gifts to respondents:

Respondents to this information collection do not receive any payments or gifts.

10. Assurance of confidentiality:

All medical records of all CMV drivers are kept confidential. The information is retained by the FMCSA in accordance with the requirements of the Privacy Act of 1974 ,5 U.S.C. 552a, as amended, (see Attachment I). The information on the physical examination form is retained on file in the office of the medical examiner and is subject to applicable State and Federal laws regarding the confidentiality of medical records. FMCSA, in accordance with §§ 391.51 and 398.3, requires only the medical examiner’s certificate of physical qualification to be kept in the medical examiner’s file (see Doctor’s Certificate) and in the driver qualification file maintained by the employing motor carrier.

Section 215 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) requires the medical examiner’s certificate to be made a part of the CDL (see Attachment J). Therefore FMCSA is proposing that information from the medical examiner’s certificate be added to the CDLIS driver record maintained by the SDLA.

The SDLAs already maintain all CDL information specified in the Commercial Motor Vehicle Safety Act of 1986, as amended by MCSIA, except the medical examiner’s certificate data. As a result, the medical certification status information would be protected through the existing CDLIS security measure requirements, including the CDLIS State Procedures required by 49 CFR 384.107(b) (see Attachment K). As State systems of records, each SDLA is also subject to provisions of the Driver Privacy Protection Act (DPPA), 18 U.S.C. 2721 *et seq.*, (Attachment L). Copies of a driver’s CDLIS MVR made available to drivers and employing motor carriers would continue to require the same levels of consent and/or approval implemented by all States to comply with the DPPA.

Privacy is a significant consideration in development of this proposal. For example, a conscious decision was made not to require any information from the medical examination report, which contains specific medical information about the driver, on the driver record at the SDLA. This is also why the agency proposes to use the status terms of “qualified” and “not-qualified” rather than unqualified. The primary goal is to have the medical certification status information tell whether the driver is required to be certified, and if so, whether that driver is currently certified, and if any additional qualification information is required of that driver to operate a CMV in interstate commerce. Why a driver might not be certified is not addressed by the proposed status indicator. As a result, there is no pejorative connotation of unfitness associated, only a lack of having a current medical examiner’s certificate. In fact the Agency anticipates at least 2 million current CDL drivers would choose not to be bothered obtaining a medical examiner’s certificate, even though most presumably could receive such a certificate if they paid the fee for the medical examination.

11. Justification for collection of sensitive information:

The medical examination process requires the medical examiner to inquire about aspects of the driver's physical and mental health, and any history of frequent alcohol use or habit forming drug use.

12. Estimate of burden hours for information requested:

Medical Examination Form and Medical Examiner's Certificate

There are approximately 6,458,430 drivers subject to the FMCSA's medical standards. A medical examiner's certificate usually is valid for 2 years after the date of examination. This estimate includes interstate CDL holders and all other drivers currently subject to FMCSA's medical standards. FMCSA estimates that there are approximately 3.1 million active interstate CDL holders that are subject to the Agency's medical requirements. This means that of the 6,458,430 drivers covered by the medical requirements, 3,358,430 $[6,458,430 - 3,100,000 = 3,358,430]$ are not currently required to hold an interstate CDL. We expect that half, or 1,679,215 of these drivers (persons who do not hold an interstate CDL) would obtain a medical examination each year.

FMCSA estimates that there are approximately 3.1 million active interstate CDL holders that would be subject to the requirements set forth in FMCSA's proposed MedCert-CDL rule that would merge the medical certificate and CDL processes. We expect that half of these interstate CDL drivers (1,550,000), or approximately 1.6 million would obtain medical examinations per year. In addition, another 20 percent of these 1.6 million interstate CDL drivers (or 320,000 $(0.20 \times 1.6 \text{ million} = 320,000)$) would obtain medical examinations each year due to changing jobs and applying for exemptions. Therefore, FMCSA estimates that 1,870,000 interstate CDL drivers would obtain medical examinations each year $[1,550,000 + 320,000 (.20 \times 1.6 \text{ million}) = 1,870,000 \text{ drivers}]$.

Estimated Total Annual Responses: 3,549,215 $[1,679,215 \text{ medical, examinations for drivers not required to hold an interstate CDL} + 1,870,000 \text{ medical examinations for interstate CDL drivers} = 3,549,215]$.

It takes a medical examiner approximately 20 minutes to complete and document the medical examination and 1 minute to complete and file the medical examiner's certificate. The MedCert-CDL NPRM would require for drivers subject to part 391 that the motor carrier obtain a copy of the CDL driver's CDLIS motor vehicle record from the State licensing agency as proof of medical qualification and place a copy in the driver's file. Currently, the motor carrier is required to obtain a copy for all CMV drivers of the MVR record from the State. After the MedCert-CDL rule is implemented, however, the only difference in this information collection activity would be that the CDL driver's record for drivers subject to part 391 would now contain medical certification information. No new paperwork burdens would be placed on the motor carrier to obtain this medical certification information for interstate CDL holders since the carrier is already required to make an inquiry to obtain the MVR of each driver that the carrier

employs. 49 CFR 391.25 and 391.51.

The MedCert-CDL NPRM would require all CMV drivers operating in interstate commerce (both CDL and non-CDL) who are subject to 49 CFR part 391 to provide motor carriers with a copy of any Federal exemption granted to the drivers. As noted above, CMV drivers are already required to provide the motor carriers with a copy of any SPE certificate granted to drivers.

Each driver that operates a CMV in interstate commerce must have a medical examination at least once every 2 years. The examination must include a health history, vision, hearing, visual examination of the throat, listening to the heart for abnormalities, blood pressure, listening to the lungs, adomen and viscera, genital urinary and rectal examination, neurological, visual examination of spine and musculoskeletal features and extremeties. Laboratory testing may be indicated based on the medical history or the findings of the physical examination.

The medical exam must be performed by a medical examiner (not limited to doctors of medicine, but may include doctors of osteopathy, physician assistants, advance practice nurses and doctors of chiropractic). As noted above, FMCSA estimates that 1,870,000 interstate CDL holders would need an annual exam. The Agency also assumes that approximately 1,679,215 other CMV drivers (non-CDL interstate and intrastate) would need an annual exam. Thus, FMCSA estimates that the medical examiners would conduct approximately 3,549,215 exams ($1,870,000 + 1,679,215 = 3,549,215$) on CMV drivers each year. The agency also estimates that it would take the medical examiner approximately 22 minutes to conduct an exam on each of the CMV drivers. Therefore, the annual time burden to medical examiners (the respondents) to complete the medical examination and certificate is estimated at **1,301,379 hours** ($3,549,215$ certificates x 22 minutes/60 minutes per hour).

It takes a motor carrier approximately 1 minute to retain and file a copy of the CMV driver's proof of medical qualification in the driver's qualification file, along with a copy of any waiver, exemption, or SPE certificate. The annual time burden for respondents (motor carriers) to retain and file the medical certificate for all drivers subject to the medical qualifications requirements is estimated at **59,154 hours** ($3,549,215$ certificates per year x 1 minute/60 minutes per hour = 59,154 hours)

With regard to interstate CDL holders that would be subject to this MedCert-CDL rulemaking, motor carriers would no longer be required to obtain a copy of the interstate CDL driver's proof of medical certifications from the driver. Carriers would be required to maintain and file a copy of any exemption or SPE certificate of all CMV drivers (CDL and non-CDL), but not the medical certificate of the interstate CDL holder. Therefore, the annual time burden to respondents (motor carriers) to retain and file the medical certificate for the interstate CDL holders would be reduced by **31,167 hours** ($1,870,000$ certificates for interstate CDL holders x 1 minute/60 minutes per hour = 31,167). This burden would essentially be transferred to the SDLA which would be required to maintain the medical examiner's certificate for at least 6 months from the date the driver provided a copy to the State. As noted above, the SDLA

burdens associated with uploading the medical certification information into CDLIS are covered in OMB Control No. 2126-0011.

With regard to the annual burden adjustment for the motor carriers to retain and file a copy of all CMV driver's exemptions in the driver's qualification file, the Agency has included its analyses of these information collection activities below. Respondents' salary costs associated with these burden hours are also estimated below.

The average hourly wage of a physician who serves as a medical examiner is \$80 per hour (\$166,000 per year/2080 hours (40 hours per week x 52 weeks) per year = \$80). The average hourly wage of a physician assistant who serves as a medical examiner is \$33 per hour (\$69,410 median annual earnings of physician assistants/2080 hours (40 hours per week x 52 weeks) per year = \$33). The median annual earnings are based on the U.S. Department of Labor's "Occupational Outlook Handbook, 2006-07 Edition." [<http://www.bls.gov>] The definition of medical examiner may also include advance practice nurses and doctors of chiropractic. For the purposes of this analysis, FMCSA will use the hourly wage of physicians estimated at \$80.00 per hour, or \$1.33 per minute. The annual salary cost for medical examiners to complete the medical examination process is approximately \$99,129,574 [3,549,215 examinations x \$27.93 (\$1.33 per minute for physicians x 21 minutes = \$27.93) = \$99,129,574].

The average hourly wage (including benefits) of motor carriers' administrative personnel is estimated to be \$13.73, or 23 cents per minute. The annual salary cost to motor carriers to retain, copy and file the medical certificate of CMV drivers (except interstate CDL drivers) in the DQ file is estimated at \$386,219 [1,679,215 certificates x .23 (.23 x 1 minute) = \$386,219].

Therefore, the total annual salary cost to respondents (medical examiners and motor carriers) to complete the medical examination process and to retain and file the medical certificate is estimated at **\$99,515,793** (\$99,129,574 + \$386,219 = \$99,515,793).

Resolution of Medical Conflicts

The safety director of a motor carrier would generally submit an application to the FMCSA to resolve a medical conflict, and would attend a hearing if the FMCSA deems it necessary to hold a hearing. A carrier's safety director would need approximately one hour to prepare paperwork for each medical conflict case and an additional eight hours to attend any hearing. There are about three cases per year submitted to the FMCSA for resolution of conflicting medical opinions. One of every three cases is sent to a hearing before an Administrative Law Judge. Therefore, the annual time burden to respondents (motor carriers) for the resolution of medical conflicts is about **11 hours** [3 hours (3 cases x 1 hour each to prepare) + 8 hours to attend one administrative hearing per year = 11 hours)].

Respondents' (motor carriers) salary costs associated with the resolution of medical conflicts are calculated below. The average hourly wage (including benefits) of the carrier's safety director is estimated to be \$22.00 per hour, and that he/she would spend 8 hours at the hearing. The motor carrier's cost would be about \$176 if the case went to a hearing (8 hours x \$22 per hour = \$176)

and approximately \$22 if the case did not go to a hearing. Thus, the annual salary costs to respondents for the resolution of medical conflicts is approximately **\$220** [\$176 + \$44 (2 non-hearing cases x \$22 per case) = \$220].

Skill Performance Evaluation Certification Program (formerly the Limb Waiver Program)

There are approximately 2,400 active drivers with skill performance evaluation (SPE) certificates for limb impairments. An SPE certificate is valid for 2 years; therefore, it is estimated that there will be approximately 1,200 SPE certificates due for renewal in any one year. Further, it is estimated that there will be approximately 400 new SPE certificates processed this year, making a total of 1,600 new and renewed annual SPE certificates. It takes an estimated 15 minutes for a driver to complete an application for a new SPE certificate, approximately two minutes for a driver to complete an application for an SPE certificate renewal, and approximately one minute for the motor carrier to make a copy of the SPE certificate and file it in the DQ file. A motor carrier's annual time burden for the SPE certification program is about 27 hours (1,600 certificates x 1 minute/60 min = 27 hours). Drivers who voluntarily participate in the SPE spend approximately 140 annual hours [40 hours (1,200 renewals x 2 min. = 2,400 min./60) + 100 hours (400 new x 15 min., or 6,000 min./60) = 140 hours] to complete the SPE application and renewal processes.

Therefore, the total estimated annual hour burden for respondents (motor carriers and drivers) to complete the SPE certificate application and renewal (waiver) processes and retain a copy of the certificate in the driver's DQ file is **167 hours** [27 hours (carrier) + 140 hours (40 driver renewals) + 100 driver (new)) = 167 hours].

Respondents' (carriers and drivers) salary costs associated with the burden for the SPE are estimated as follows. The average hourly wage (including benefits) of motor carriers' administrative personnel, who would file the certificates, is estimated to be \$13.73. The median hourly earnings for drivers of general freight trucks is \$16.11 with the middle 50 percent earning between \$12.67 and \$20.09 per hour. For the purposes of this analysis FMCSA will use \$20.09 per hour as an average.

Therefore, the total annual salary costs to respondents (carriers and drivers) to participate in the SPE certification program is **\$3,184** [\$370.71 for motor carriers (27 hours x \$13.73 per hour for administrative personnel = \$370.71) + \$2,813 for drivers (140 hours x \$20.09 per hour = \$2,813) = \$3,183.71, or \$3,184 rounded].

Vision Exemptions

There are approximately 840 new applications for vision exemptions annually. Approximately 20 percent (or 168 new vision exemptions) are granted annually. An exemption is valid for two years, but may be renewed. Currently, there are 1,500 active drivers with vision exemptions. It

is estimated that 50 percent or 750 vision exemptions would be up for renewal annually. It takes an estimated 60 minutes for a driver to complete an application for a vision exemption. The annual time burden for applying for new vision exemptions and renewing existing vision exemptions is estimated at 918 hours (168 new vision exemptions + 750 vision exemption renewals x 1 hour each = 918 hours).

In the MedCert-CDL NPRM, the FMCSA proposes that motor carriers would be required to maintain a copy of the CMV driver's vision exemption document in the driver qualification file. A motor carrier's annual time burden to participate in the vision exemption program would 28 hours [(1,500 active drivers with vision exemptions + 168 new vision exemptions per year = 1,668 vision exemptions) x 1 minute/60 min] = 27.8 hours, or 28 hours rounded], and FMCSA anticipates this estimate would increase slightly each year based on new vision exemptions filings and renewals.

Therefore, the total estimated annual burden hours for respondents (carriers and drivers) to complete the vision exemption application and renewal processes and retain a copy in the driver's DQ file is **946 hours** [918 hours (driver) + 28 hours (carrier) = 946 hours].

Respondents' salary costs associated with these hours is estimated below. The median hourly earnings of general freight truck drivers who would apply for a vision exemption is approximately \$16.11 with the middle 50 percent earning between \$12.67 and \$20.09 per hour. For the purposes of this analysis, FMCSA will use \$20.09 to avoid underestimating the cost. The total annual salary cost to respondents (drivers) to apply for or renew a vision exemption is estimated at \$18,443 (918 hours x \$20.09 per hour = \$18,442.62, or \$18,443 rounded to the nearest dollar).

Therefore, the total annual salary costs to respondents (carriers and drivers) to participate in the vision exemption program is **\$18,827** [\$384.44 for motor carriers (28 hours x \$13.73 per hour for administrative personnel to file a copy of the exemption = \$384.44) + \$18,443 for drivers (918 hours x \$20.09 per hour = \$18,443) = \$18,827.44, or \$18,827 rounded to the nearest dollar].

Diabetes Exemptions

The FMCSA estimates that approximately 1,200 applications for the diabetes exemption could be filed by CMV drivers annually, and that it would take an average of 90 minutes to complete an application or renewal for a diabetes exemption. The information collected from the CMV driver's diabetes exemption application will consist of an application letter with supporting documentation specified in the Notice of Final Disposition (Attachment A) (e.g., vital statistics, experience, driver record, medical). FMCSA carefully evaluates each and every application for regulatory relief from the diabetes standard to assess the potential safety performance of each CMV driver applicant. The diabetes exemption program creates an annual burden of 1,800 hours (1,200 x 90 minutes/60 minutes per hour = 1,800 hours).

In the MedCert-CDL NPRM, the FMCSA would require motor carriers to retain and file a copy of the CMV driver's diabetes exemption document in the driver qualification file. A motor carrier's annual time burden to participate in the diabetes exemption program would be 20 hours [(3 active drivers currently have diabetes exemptions + 1,200 new exemptions per year = 1,203 diabetes exemptions) x 1 minute/60 min. = 20.05 hours, or 20 hours rounded]), and FMCSA expects this estimate would increase slightly each year based on new diabetes exemption filings and renewals.

Therefore, the total estimated annual burden hours for respondents (carriers and drivers) to complete the diabetes exemption application and renewal processes and retain, file and copy the vision exemption in the DQ file is **1,820 hours** (1,800 hours + 20 hours = 1,820 hours)

The median hourly earnings of drivers of light and heavy trucks is \$20.09 per hour. The total annual salary costs to respondents (CMV drivers) to complete the diabetes exemption application and renewal processes is estimated at \$36,162 (1,800 hours x \$20.09 per hour = \$36,162). The average hourly wage (including benefits) of motor carriers' administrative personnel to file a copy of the diabetes exemption in the driver qualification file is estimated to be \$13.73. The total annual salary for motor carriers' administrative personnel would be \$275 [\$13.73 x 20 hours (1,203 diabetes exemptions x 1 minute per exemption/60 minutes per hour)]. Therefore, the total annual salary cost to respondents (drivers and carriers) to participate in the diabetes exemption program is estimated at **\$ 36,437** [\$36,162 (driver cost) + \$275 (carrier cost) = \$36,437].

Medical Examiner's Certificate for Drivers of Migrant Workers

There are an estimated 300 drivers of migrant workers. Under 49 CFR 398, a driver of migrant workers is required to have a medical examination every 36 months. Therefore, about 1/3 of the 300 drivers, or 100, are examined each year. It takes about 1 minute for a physician to complete the medical certificate (a medical examination form is not required to be completed). The driver presents the certificate to the motor carrier, who makes a copy for its driver qualification file. A carrier needs about 1 minute to copy and file a certificate. The annual time burden to respondents (drivers) to comply with the migrant worker regulations is estimated at **3 hours** (100 certificates x 2 minutes/60 min. = 3.3 hours, or 3 hours rounded).

Respondent's salaries associated with these costs are calculated as follows. The average hourly wage of a physician who serves as a medical examiner is \$80 per hour (\$166,000 per year/2080 hours (40 hours per week x 52 weeks) per year = \$80). The average hourly wage of a physician assistant who serves as a medical examiner is \$33 per hour (\$69,410 median annual earnings of physician assistants/2080 hours (40 hours per week x 52 weeks) per year = \$33). The median annual earnings are based on the U.S. Department of Labor's "Occupational Outlook Handbook, 2006-07 Edition." [<http://www.bls.gov>]. The definition of medical examiner may also include advance practice nurses and doctors of chiropractic. For the purposes of this analysis, FMCSA will use the hourly wage of physicians estimated at \$80.00 per hour, or \$1.33 per minute. The annual cost for physicians to complete the medical certificate is estimated at \$133 (100

certificates x \$1.33 per minute = \$133). The average hourly wage (including benefits) of carriers' administrative personnel to retain, copy and file a copy of the medical certificate of a driver of migrant workers is estimated at \$13.73, or .23 cents per minute. The annual cost to motor carriers to retain, copy and file the medical certificate is estimated at \$23.00 (100 certificates x .23 cents = \$23).

Therefore, the annual salary costs to respondents (medical examiners and carriers) is estimated at **\$156.00** [\$133 (medical examiner) + \$23 (carrier) = \$156.00].

TOTALS:

FMCSA estimates the total estimated annual time burden to respondents for all medical requirement components is estimated at **1,304,326, hours** [(1,301,379 hours (medical certificates) + 11 hours (resolution of medical conflicts) + 167 hours (SPE certificates (formerly the limb waiver program)) + 946 hours (vision exemptions) + 3 hours (migrant workers) + 1,820 (diabetes exemptions) = 1,304,326].

The Agency estimates the total annual salary costs for all respondents associated with these burden hours at **\$99,574,617** (99,515,793 (medical certificates) + \$220 (resolution of medical conflicts) + \$3,184 (SPE) + \$18,827 (vision exemptions) + \$156 (migrant workers) + \$36,437 (diabetes exemptions) = \$99,574,617).

13. Estimate of total annual costs to respondents:

Respondent's salary costs associated with the burden hours are discussed above.

14. Estimate of cost to the Federal government:

The cost to the Federal government due to the medical examination process requirements is minimal because the FMCSA does not receive or process the documents associated with the medical examination. The cost to the Federal government for the resolution of medical conflict is minimal; there are only about three cases per year submitted to the FMCSA for resolution of conflicting medical opinions. It takes approximately 3 hours for an ALJ to review the record and prepare a decision for the 3 medical conflict cases that are filed each year. The ALJ would normally only preside over one medical conflict case hearing each year which would take 8 hours of his or her time. The average hourly wage (including benefits) of a Federal ALJ (at the AL-1 level in the Washington-Baltimore-Northern Virginia locality area is \$73 per hour (\$152,000 per year / 2080 work hours per year. The salary costs to the Federal government to resolve medical conflict cases is estimated at **\$803** (\$73 AL-1 level administrative law judge x 11 hours (8 + 3) = \$803).

The SPE program requires approximately 1.5 hours for FMCSA to analyze the letter of application and the accompanying materials. It takes approximately 8 hours to process the SPE certification forms and evaluate the applicant's driving abilities. An additional 30 minutes is

needed to analyze paperwork prepared by the evaluating employee and issue the certificate to the applicant, generating a total of 10 hours of staff work (1.5 hours + 8 hours + 1.5 hours = 10 hours) per SPE certificate. The average hourly wage (including benefits) of FMCSA field staff personnel is \$20.43.

Therefore, the salary costs to the Federal government to process each SPE certificate is estimated at \$204.30 ($\$20.43 \times 10 \text{ hours} = \204.30). The annual cost to the Federal government to receive and process SPE certificates is estimated at **\$326,880** [1,600 SPE certificates (1,200 + 400) \times \$204.30 per SPE certificate = \$326,880].

The cost to the Federal government to conduct the vision exemption process is approximately **\$504,000 annually**. This is the amount the agency pays a contractor to process exemption applications. The average monthly amount for contractor services to conduct the vision exemption program is \$42,000.

The cost to the Federal government to conduct the diabetes exemption process will be approximately **\$800,000 annually**. This is the amount the agency pays a contractor to process exemption applications. The average monthly amount for contractor services to conduct the diabetes exemption program is \$67,000.

There is no cost to the Federal government as a result of the operations of drivers of migrant workers because FMCSA does not receive or process any of the driver qualification information such carriers are required to maintain.

The total annual cost to the Federal government for all medical requirement components is approximately **\$1,631,683** [(\$803 (medical conflict) + \$326,880 (SPE Process) + \$504,000 (vision exemption process) + \$800,000 (diabetes exemption process) = \$ 1,631,683].

15. Explanation of program changes or adjustments:

A regulatory change has resulted in additional drivers who are subject to medical qualification requirements subject to this information collection and a program change in annual burden hours from 1,185, 876 to 1,304,326.

16. Publication of results of data collection:

This information will not be published.

17. Approval for not displaying the expiration date for OMB approval:

The FMCSA is not seeking this approval.

18. Exceptions to certification statement:

There are no exceptions to the certification statement.

Part B. Collections of Information Employing Statistical Methods.

N/A.

Attachments

- A. Notice of Proposed Rulemaking titled, “Medical Certification Requirements *as Part of the CDL.*”
- B. 49 CFR 391.
- C. 49 CFR 390.
- D. 49 CFR 398.
- E. 49 CFR 381.
- F. Notice of Intent, July 31, 2001.
- G. Notice of Final Disposition titled, “Qualification of Drivers; Exemption Applications, Diabetes,” September 3, 2003.
- H. Notice of Revised Final Disposition titled, “Eligibility Criteria and Applications; Diabetes,” November 8, 2005.
- I. Privacy Act of 1974, 5 U.S.C. 552, as amended.
- J. Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, December 9, 1999.
- K. 49 CFR 384.
- L. 18 U.C.S. 2721.