

Information Collection Clearance

The Supporting Statement

Medical Qualification Requirements

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) submits its revision to a currently-approved information collection (IC) titled, “Medical Qualification Requirements,” covered by OMB Control Number 2126-0006. This IC is currently due to expire on March 31, 2007.

Part A. Justification.

1. Circumstances that make the collection of information necessary:

Commercial motor vehicles (CMVs) are by their nature a threat to highway safety if not operated properly by qualified individuals. CMVs (trucks and buses) are longer, heavier, and more difficult to maneuver than automobiles. Not only does it take a skilled driver to operate them safely, it takes a physically and mentally fit driver. Information on driver medical fitness must be collected in order for our highways to be safe. The Federal Motor Carrier Safety Administration (FMCSA) is the Federal government agency that is authorized to require the collection of this information, and the authorizing regulations are in 49 CFR 390-399 (See Attachment A).

In 49 CFR 391.41 are the medical standards that almost all CMV drivers in interstate commerce must meet, with the exception of drivers of migrant workers (who must meet the medical standards in 49 CFR 398.3). The regulations on keeping records for driver medical qualifications are found in 49 CFR 391.43, which specifies that a physical examination be performed on CMV drivers who operate in interstate commerce. The results of the examination shall be recorded in accordance with the requirements in the section.

If two medical examiners disagree about the medical certification of a driver, the requirements in 49 CFR 391.47 mandate a third medical examiner’s opinion. The third medical examiner is an impartial medical expert whose participation to give a medical opinion is mutually agreed upon by the driver and motor carrier. If there is disagreement on the opinion by either party, 49 CFR 391.47 provides a procedure for submitting an application to the FMCSA for resolution of the medical conflict.

The provisions of 49 CFR 391.51 and 398.3 require that a motor carrier retain the medical qualification certificate in the driver’s qualification file for 3 years. The certificate affirms that the driver is medically qualified to drive a CMV in interstate commerce.

Persons who are not medically qualified to drive under Section 391.41 due to a limb impairment must file an application for and be issued a skill performance evaluation (SPE) certificate

(formerly a limb waiver) in order to be qualified. This is specified in 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.

49 CFR 381.300 establishes the procedures persons must follow to request exemptions from the regulations. Without an exemption, individuals who do not meet the vision or diabetes requirements in 49 CFR 391.41 would not be qualified to operate a CMV in interstate commerce.

On September 3, 2003, the FMCSA announced in a Final Notice of Disposition (68 FR 52441, See Attachment B) that it will issue exemptions to CMV drivers with insulin-treated diabetes mellitus (ITDM) from the Federal diabetes standard 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.

On November 8, 2005, the FMCSA announced in a Notice of Revised Final Disposition titled, "Eligibility Criteria and Applications; Diabetes, (70 FR 67777, See Attachment C) its decision to revise the terms and conditions of its previous decision to issue exemptions to CMV drivers with ITDM from the Federal diabetes standard in the Federal Motor Carrier Safety Regulations (FMCSRs). This action was in response to section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) at Attachment D which required FMCSA within 90 days of enactment to modify its exemption program to allow individuals who use insulin to treat diabetes mellitus to operate CMVs in interstate commerce, without having to demonstrate safe driving experience operating a CMV while using insulin, while at the same time implementing certain requirements contained in section 4129.

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 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. The FMCSA medical standards provide this assurance by requiring drivers to be physically examined and medically qualified to be 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 drivers. Consequently, the estimate of the number of CMV drivers (respondents) covered by this information collection reflects both interstate drivers subject to the Federal Motor Carrier Safety Regulations (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; therefore, we assume this burden is consistent with other FMCSA information collections.

Motor carriers are permitted to employ only drivers who are medically qualified to drive. Applicants with certain medical conditions are not qualified to drive. Individuals with limb impairments are permitted to operate a CMV only when they are otherwise qualified and are granted a SPE certificate by the FMCSA. The FMCSA must collect this type of medical information about drivers so that public safety is not compromised.

The medical conflict application provision provides a mechanism for drivers and motor carriers to have the FMCSA make a final decision to resolve conflicting medical evaluations when either party does not accept the decision of a medical specialist. Without the last provision and its incumbent information-collecting requirements, an unqualified person may be permitted to drive and qualified persons may be prevented from driving.

Medical examiners must provide specific FMCSA-prescribed information about every driver they examine. If this information were not required, the threat to public safety would be immense and unacceptable.

The 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. Information collected under 49 CFR 381.310 is necessary to the FMCSA in making its determination to grant an exemption from compliance with a regulation.

3. Extent of automated information collection:

Because the FMCSA does not require that medical documents be provided to FMCSA, “electronic collection of information” is not applicable and is, therefore, 0%, for purposes of this medical qualifications information collection.

The nature of the medical certificate and recordkeeping requirements in the driver’s qualification files precludes automated collection by the motor carriers for this information at this time. A hard copy of the certificate must be signed by the medical examiner and retained on file by the motor carrier. There is nothing to preclude an electronic record of the medical examination. The FMCSA is constantly evaluating new information technology in an attempt to decrease the burden on motor carriers and medical examiners. Our evaluation is always done in the context of retaining highway safety as our highest priority. Any new or improved information technology in the medical or scientific field would be subject to rulemaking if it affected the medical qualifications of drivers.

4. Efforts to identify duplication:

The FMCSA is the only Federal agency with the authority to regulate the qualifications of CMV drivers operating in interstate commerce. Rulemaking under the Administrative Procedure Act provides the necessary medium for uncovering duplication if it existed. Comments to the docket on various FMCSA rulemaking notices 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:

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. Federal 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. In the interest of highway safety, the medical examination and exemption renewal 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 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 are 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 CMV drivers with ITDM from the Federal diabetes standard 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). As a result of the implementation of section 4129 of SAFETEA-LU, individuals with ITDM 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.

On October 19, 2006 (71 FR 61822), (See Attachment E) FMCSA published a notice in the Federal Register requesting public comments on the proposed renewal of this IC. The agency received no comments from the public in response to this notice. In addition, FMCSA published a second notice (72 FR 9995) on March 6, 2007 (See Attachment F) with a 30 day comment period that announced this IC was being submitted to OMB for approval.

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 are kept confidential. The information is retained by the FMCSA in accordance with the requirements of the Privacy Act of 1974. 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. The FMCSA, in accordance with Sections 391.51 and 398.3, requires only the medical certificate of physical qualification to be kept in the driver qualification file maintained by the employer.

11. Justification for collection of sensitive information:

The medical examination process requires the medical examiner to inquire about aspects of driver physical and mental health, including history of frequent alcohol use, illicit drug use or habit-forming medication use.

12. Estimate of burden hours for information requested:

Medical Examination Form and Medical Certificate

There are approximately 7,000,000 drivers subject to the FMCSA medical standards. A medical certificate usually is valid for 2 years after the date of examination. However, drivers with certain medical conditions must be certified more frequently than every two years, so halving the number of drivers underestimates the total number of certifications that are conducted annually. In addition, some employers require newly hired drivers to obtain a new medical certification even if the driver's current certificate is still valid. As a result of these exceptions to the biennial medical certification schedule, the Agency estimates that the actual number of medical certifications conducted annually is 20 percent greater than would be the case if all drivers were only examined biennially. Biennial examinations would result in approximately 3,500,000 medical examinations per year, but the Agency estimates that approximately 4,200,000 examinations are conducted annually [3,500,000 regular medical examinations x .20 (20%) out-

of-cycle medical examinations + 3,500,000 regular medical examinations = 4,200,000]. It takes a medical examiner approximately 20 minutes to complete, document, and file the medical examination report and 1 minute to complete the medical examiner's certificate and furnish one copy to the person who was examined and one copy to the motor carrier who employs him or her. It takes a motor carrier approximately 1 minute to file the medical certificate. Therefore, the annual time burden to respondents for the medical examination and certificate is estimated at **1,540,000 hours** (4,200,000 certificates x 22 minutes/60 minutes per hour).

Respondents' salary costs associated with these hours is estimated as calculated below. The average hourly wage of a medical examiner (not limited to doctors of medicine but may include doctors of osteopathy, physician assistants, advance practice nurses and doctors of chiropractic) is estimated to be \$54.03¹, or 90 cents per minute. The annual salary cost for medical examiners to complete the medical examination process is approximately \$79,425,570 [4,200,000 examinations x \$18.91 (.90 x 21 minutes) = \$79,425,570].

The average hourly wage (including benefits) of motor carriers' administrative personnel is estimated to be \$11.09², or 18 cents per minute. The annual salary cost to motor carriers to file the certificate is about \$776,440 [4,200,000 certificates x .18 (.18 x 1 minute) = \$776,440]. The total annual salary cost to respondents for the medical examination form and certificate is about **\$80,202,010** (\$79,425,570 salary costs for medical examinations + \$776,440 salary costs for administrative support).

Resolution of Medical Conflict

The safety director of a motor carrier would generally submit the application to the FMCSA for a resolution of medical conflict, and would attend a hearing if the FMCSA deems it necessary to hold a hearing. A safety director would need approximately 1 hour to prepare paperwork for each case and an additional 8 hours to attend any hearing. There are about 3 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 for the resolution of medical conflicts is about **11 hours** (3 cases x 1 hour each to prepare, plus 8 hours for one hearing per year).

Respondents' salary costs associated with the resolution of medical conflicts is estimated as calculated below. The average hourly wage (including benefits) of safety directors is estimated

1 This wage estimate is based on a weighed average of average wages for 5 health care professions: Medical Doctors, Doctors of Osteopathy, Physician Assistants, Advanced Practice Nurses, and Chiropractors. The average wages for Medical Doctors, Doctors of Osteopathy, Physician Assistants, and Chiropractors were taken from the Bureau of Labor Statistics May 2005 National Occupational Employment and Wage Estimates. Wage estimates for Advanced Practice Nurses are based on estimates contained in the Health Resources and Services Administration's National Sample Survey of Registered Nurses 2000, because the BLS does not distinguish between R.N.s and Advanced Practice Nurses. Nursing wages were adjusted to 2005 dollars using the Consumer Price Index.

2 Bureau of Labor Statistics May 2005 National Occupational Employment and Wage Estimates. Average wage of an office clerk, general (occupation code number 43-9061).

to be \$22.00. The motor carrier's cost would be about \$198 if the case went to a hearing (9 hours x \$22 per hour) and approximately \$22 if the case did not go to a hearing. The annual salary costs to respondents for the resolution of medical conflicts is approximately \$242 [\$198 + 44 (2 non-hearing cases x \$22 per case)].

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

There are approximately 3,400 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 1,700 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 2,100 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 **35 hours** (2,100 certificates x 1 minute/60 min = 35 hours). Drivers who voluntarily participate in the SPE spend approximately 157 annual hours [57 hours (1,700 renewals x 2 min. = 3,400 min./60) + 100 hours (400 new x 15 min., or 6,000 min./60) = 157 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 **192 hours** [35 hours (carrier) + 157 hours (40 driver (renewals) + 100 driver (new)) = 192 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 **\$3,635** [\$480.55 for motor carriers (35 hours x \$13.73 per hour for administrative personnel = \$480.55) + \$3,154.13 for drivers (157 hours x \$20.09 per hour = \$3,154.13) = \$3,634.68, or \$3,635 rounded to the nearest dollar].

Vision Exemptions

There are approximately 1241 new applications for vision exemptions annually and 1572 total applicants (new and renewals). Approximately 268 new vision exemptions or (22 percent) are granted annually. An exemption is valid for two years, but may be renewed. Currently, there are 1,004 active drivers with vision exemptions. It is estimated that 27 percent or 424 vision

exemptions would be up for renewal annually [1572 total applicants x .27 or 27percent = 424]. 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 692 hours (268 new vision exemptions + 424 vision exemption renewals x 1 hour each = 692 hours).

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 727 **hours** [692 hours (driver) + 35 hours (carrier) = 727 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 \$13,500 (672 hours x \$20.09 per hour = \$13,500.48, or \$13,500 rounded to the nearest dollar).

Therefore, the total annual salary costs to respondents (carriers and drivers) to participate in the vision exemption program is **\$13,500** [\$480.55 for motor carriers (35 hours x \$13.73 per hour for administrative personnel to file a copy of the exemption = \$480.55) + \$13,500 for drivers (672 hours x \$20.09 per hour = \$13,500) = \$13,500.48, or \$13,500 rounded to the nearest dollar].

Diabetes Exemptions

The FMCSA estimates that approximately 600 applications for the diabetes exemption could be filed annually, and that it would take an average of 60 minutes to complete an application. The information collected from the diabetes exemption application will consist of an application letter with supporting documentation specified in the Notice of revised final disposition (Attachment C) (e.g., vital statistics, medical, copy of driver's license). The FMCSA would carefully evaluate each and every application for regulatory relief from the diabetes standard to assess the potential safety performance of each applicant. The diabetes exemption program creates an annual burden of **600 hours** (600 x 1hour = 600 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 \$12,054 (600 hours x \$20.09 per hour = \$12,054). 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 \$137 [\$13.73 x 10 hours (600 diabetes exemptions x 1 minute per exemption/60 minutes per hour) = \$137.30 or \$137.00 rounded to nearest dollar]. Therefore, the total annual salary cost to respondents (drivers and carriers) to participate in the diabetes exemption program is estimated at **\$ 12,191** [\$12,054 (driver cost) + \$137 (carrier cost) = \$12,191].

Medical 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 for the migrant worker regulations is approximately **3.5 hours** (100 certificates x 2 minutes/60).

Respondent's salaries associated with these costs is calculated as follows. The hourly wage of a physician is estimated to be \$45.00, or 75 cents per minute. The annual cost for physicians (licensed medical doctor or doctor of osteopathy) to complete the medical certificate is about \$75 (100 certificates x 75 cents). The average hourly wage (including benefits) of carriers' administrative personnel is estimated to be \$10.00, or 17 cents per minute. The annual cost to motor carriers to copy and file the certificate is about \$17.00 (100 certificates x 17 cents). The annual salary costs to respondents are about **\$92.00** (\$75 + \$17).

TOTALS:

The total estimated annual time burden to respondents for all medical requirement components is approximately **1,541,534 hours** (1,540,000 hours for medical examination form and certificate + 11 hours for resolution of medical conflict + 192 hours for skill performance evaluation + 727 hours for vision exemptions + 600 hours for diabetes exemptions + 3.5 hours for medical certificates for migrant workers). The total annual salary costs for respondents associated with these hours is approximately **\$80,231,670** (80,200,540 costs for medical examinations + \$242 resolution of medical conflict + 3,635 SPE certification program + \$13,500 vision exemptions + 12,191 diabetes exemptions + \$92 medical certificate for drivers of migrant workers).

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. 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.

The SPE program requires approximately 1.5 hours 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, making a total of 10 hours of staff work 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 per SPE certificate is approximately \$204.30. The annual cost to the Federal government for the SPE certification program is approximately **\$347,310** [1,700 SPE certificates x \$204.30 per SPE certificate= \$347,310].

The cost to the Federal government to conduct the vision exemption process is approximately **\$500,000** annually. This is estimated using an average monthly amount of \$42,000 contract costs to conduct the vision exemption program.

The cost to the Federal government to conduct the diabetes exemption process will be approximately **\$800,000** annually. This is estimated using an average monthly amount of \$67,000 contract costs to conduct the diabetes exemption program.

The cost to the Federal government as a result of the operations of drivers of migrant workers is minimal because the FMCSA does not receive or process the documents.

The total annual cost to the Federal government for all medical requirement components is approximately **\$1,647,310** [\$347,310 SPE Process + \$500,000 vision exemption process + \$800,000 diabetes exemption process = \$1,647,310].

15. Explanation of program changes or adjustments:

The program change is due to an increase in the number of SPE certificates from 1,600 to 3,400, vision exemption applications from 600 to 1241 and a decrease in diabetes exemption applications from 700 to 600 respondents.

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.

This information does not employ statistical methods.

Attachments

- A. 49 CFR 390-399
- B. Notice of Final Disposition (68 FR 52441) “Qualification of Drivers; Exemption Applications; Diabetes,” September 3, 2003
- C. Notice of Revised Final Disposition (70 FR 67777) Qualification of Drivers, “Eligibility Criteria and Applications; Diabetes Exemption,” November 8, 2005
- D. Section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SATETEA-LU), Public Law 109-59, 119 Stat. 1144, August 10, 2005.
- E. 60 day Comments Request FR Notice (71 FR 61822) October 19, 2006.
- F. 30 day Comments Request FR Notice (72 FR 9995) March 6, 2007.