

source to a level below the applicable emission thresholds.”

Subsection NR 428.21(3), “Other Regulated Units,” provides an exemption for certain NO<sub>x</sub> emission units. WDNR amended NR 428.21(3), to ensure that the existing 75 tpy exemption threshold continues to apply in areas with a 100 tpy major source emission threshold, by adding subsections NR 428.21(3)(b) and (c). The changes clarify that the exemption applies—if the emissions unit is located in a facility subject to the applicability thresholds specified under section NR 428.20 (1)(a)1, 2(a), or 3(a), and if the emission unit is subject to and meeting an emission limitation in Wisconsin’s SIP under section NR 428.04(2) or NR 428.05(3).

Last, WDNR updated NR 428 to create a section that describes the compliance schedule for a facility that has NO<sub>x</sub> emission units affected by the updated NO<sub>x</sub> RACT thresholds in NR 428.20, by adding subsection NR 428.255 to include information on compliance schedules. The changes to NR 428 will only have the potential to impact sources whose emissions exceed the NO<sub>x</sub> RACT major source applicability.

### III. What is EPA’s analysis of the revisions?

CAA Section 110(l) prohibits EPA from approving a SIP revision if that revision would interfere with any applicable requirement concerning attainment, reasonable further progress, or any other CAA requirement. EPA concurs with WDNR’s 110(l) analysis that the revision to Wisconsin’s rules does not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA. The revisions to rules NR 404, NR 407, NR 408, NR 428, and NR 484 have no impact on emissions, ensures implementation of the ozone NAAQS in areas designated nonattainment and are consistent with the requirements of the CAA.

### IV. What action is EPA taking?

EPA is proposing to approve revisions to chapters NR 404, 407, 408, 428, and 484, as submitted on April 8, 2022, into the Wisconsin SIP. The revision to chapters NR 404 and 484 update Wisconsin’s ambient air quality rule to incorporate the 2015 ozone NAAQS and the incorporation by reference rule with the monitoring requirements related to the NAAQS make Wisconsin’s rules consistent with the Federal regulations. Additionally, the clarifications and updates to sections of chapters NR 407, 408 and 428, ensure implementation of the ozone NAAQS in areas designated

nonattainment and are consistent with the CAA.

### V. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to Wisconsin Administrative Code rules NR 404, NR 407, NR 408, NR 428, and NR 484 as published in the Wisconsin Register #794 on February 28, 2022, effective March 1, 2022, discussed in section II of this preamble. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 9, 2022.

**Debra Shore,**

*Regional Administrator, Region 5.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 391

[Docket No. FMCSA–2022–0111]

#### Qualifications of Drivers: Medical Examiner’s Handbook and Medical Advisory Criteria Proposed Regulatory Guidance

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed regulatory guidance; request for comments.

**SUMMARY:** FMCSA announces the availability of the draft Medical Examiner’s Handbook (MEH), which includes updates to the Medical Advisory Criteria published in the Code of Federal Regulations (CFR), and requests comments on the proposed

regulatory guidance. The MEH and Medical Advisory Criteria provide information about regulatory requirements and guidance to medical examiners (ME) listed on FMCSA's National Registry of Certified Medical Examiners (National Registry) who perform physical qualification examinations of interstate commercial motor vehicle (CMV) drivers. The draft MEH with proposed changes to the Medical Advisory Criteria is available in Docket Number FMCSA-2022-0111.

**DATES:** Comments must be received on or before September 30, 2022.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA-2022-0111 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2022-0111/document>. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, 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:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.
- *Fax:* (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-4001, [FMCSAMedical@dot.gov](mailto:FMCSAMedical@dot.gov). If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation and Request for Comments**

*A. Submitting Comments*

If you submit a comment, please include the docket number (FMCSA-2022-0111), indicate the specific page and section of the MEH to which your 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 <https://www.regulations.gov/docket/FMCSA-2022-0111/document>, click on this request for comments, click "Comment," and type your comment into the text box on the following screen.

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 comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

*B. Viewing Comments and Documents*

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2022-0111/document> and choose the document to review. To view comments, click this request for comments, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

*C. Privacy Act*

DOT solicits comments from the public to better inform its guidance process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice DOT/ALL 14—Federal Docket Management System (FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

**II. Background**

FMCSA's mission is to reduce crashes, injuries, and fatalities involving large trucks and buses. FMCSA is authorized by statute to establish minimum physical qualification standards for drivers of CMVs operating in interstate commerce.

The determination by MEs on the National Registry of a driver's physical qualification is a critical element of FMCSA's safety program to ensure the physical condition of CMV drivers is adequate to enable them to operate the vehicles safely. First posted on FMCSA's website in 2008, the MEH

provided guidance to MEs on the physical qualification standards in the Federal Motor Carrier Safety Regulations (FMCSRs) and the conduct of the physical qualification examination. FMCSA has also issued guidance for MEs in the form of Medical Advisory Criteria, now published at 49 CFR part 391, Appendix A.

In 2015, FMCSA withdrew the MEH because some of the information was obsolete or was prescriptive in nature. MEs and training organizations were informed that the MEH was no longer in use and that they should not consider the MEH as Agency guidance.

The FMCSRs, in 49 CFR 391.41 through 391.49, provide the basic driver physical qualification standards for interstate CMV operators. MEs currently make physical qualification determinations on a case-by-case basis and may consider guidance to assist with making those determinations.

The goal of the updated MEH and related Medical Advisory Criteria is to provide information about regulatory requirements and guidance for MEs to consider when making physical qualification determinations in conjunction with established best medical practices. The revised Medical Advisory Criteria, in addition to being included in the MEH, would also be published in Appendix A to 49 CFR part 391. The final version of the criteria would be identical in both publications. FMCSA is proposing to update both the MEH and Medical Advisory Criteria and seeks public comment on these documents.

**III. MRB Task Statement 17-1**

The Medical Review Board (MRB) was established to provide FMCSA with medical advice and recommendations on medical standards and guidelines for the physical qualifications of CMV operators, ME education, and medical research (49 U.S.C. 31149(a)(1)). The MRB, in view of its statutory creation and advisory function, is chartered by DOT as an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.). See also *Announcement of Establishment of the Federal Motor Carrier Safety Administration Medical Review Board* (70 FR 57642; Oct. 3, 2005). The members of the MRB are appointed by the Secretary to reflect expertise in a variety of medical specialties relevant to the driver fitness requirements of FMCSA (49 U.S.C. 31149(a)(2)).

To assist in the development of the MEH, FMCSA, in collaboration with its Chief Medical Officer, requested advice from the MRB for the Agency to consider via MRB Task Statement 17-1.

Specifically, FMCSA asked the MRB to review and provide recommendations for streamlining the MEH. This included removing non-regulatory directive language and updating and removing obsolete information. The MRB held public meetings, in part, to discuss the development of the new MEH and Medical Advisory Criteria and to review drafts of the MEH. Details of the meetings, including MRB Task Statement 17–1, are posted on the Agency’s public website at <https://www.fmcsa.dot.gov/medical-review-board-mrb-meeting-topics>.

#### **V. Comments Requested**

Comments are requested on the draft of the proposed MEH, including the revised Medical Advisory Criteria. To the extent possible, comments should identify the page number and section number of the MEH to which the comments apply. Please submit comments only, not redlined or heavily annotated copies of the entire MEH. FMCSA will consider comments received by the closing date of the comment period.

#### **VI. Publication of the Regulatory Guidance**

In accordance with section 5203(a)(2)(A) and (a)(3) of the Fixing

America’s Surface Transportation Act, Public Law 114–94, 129 Stat. 1312, 1535 (49 U.S.C. 113 note) (Dec. 4, 2015), the regulatory guidance would be posted in the guidance portal on FMCSA’s website at <https://www.fmcsa.dot.gov/guidance>. The Agency would then review it no later than 5 years after it is published. It would consider at that time whether the guidance should be withdrawn, reissued for another period up to 5 years, or incorporated into the regulations.

**Robin Hutcheson,**

*Deputy Administrator.*

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