

IV. Conclusion

Based on its evaluation of the eight renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of March 17, 2023, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (88 FR 13487):

Kenneth Elder (KY)
Demetris Furman (SD)
Scott Habeck (SD)
Todd Hines (OH)
Scotty Ready, Sr. (WI)
Harold Seaton (KY)
Thomas Smutnik (PA)
Tara Vanhorne (PA)

The drivers were included in docket number FMCSA–2015–0323, FMCSA–2016–007, FMCSA–2016–0008, FMCSA 2018–0052, FMCSA–2019–0036, FMCSA–2020–0046, or FMCSA–2020–0047. Their exemptions were applicable as of March 17, 2023 and will expire on March 17, 2025.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,
Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0183]

Agency Information Collection Activities; New Information Collection Request: Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA–5872

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invites public comment on the approval of a new ICR titled, Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA–5872. This Information Collection (IC) is voluntary and may be utilized by medical examiners (MEs) responsible for issuing Medical Examiner's Certificates, Form MCSA–5876, to individuals diagnosed with non-insulin-treated diabetes mellitus who operate commercial motor vehicles (CMV) in interstate commerce. MEs choosing to use this IC will do so in an effort to communicate with treating healthcare providers who manage the diabetes care of individuals diagnosed with non-insulin-treated diabetes mellitus who operate CMVs. The information obtained by MEs will assist them in determining whether an individual diagnosed with non-insulin-treated diabetes mellitus meets FMCSA's physical qualification standards.

DATES: Comments must be received on or before June 12, 2023.

ADDRESSES: You may submit comments identified by Federal Docket Management System Docket Number FMCSA–2021–0183 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov/docket/FMCSA-2021-0183/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. ET 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.

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

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

Privacy Act: In accordance with the Paperwork Reduction Act, FMCSA solicits comments from the public to better inform the Agency about the burden of the proposed ICR. FMCSA posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at www.transportation.gov/privacy.

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

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, fmcsamedical@dot.gov. Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

The primary mission of FMCSA is to reduce crashes, injuries, and fatalities involving CMVs (large trucks and buses). CMVs 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 to do so as well. Information used to determine and certify driver medical fitness helps to promote and maintain safety on our nation's highways.

FMCSA is required by statute to establish minimum standards for the physical qualifications of drivers who operate CMVs in interstate commerce for non-excepted industries (49 U.S.C. 31136(a)(3) and 31502(b)). The regulations applicable to this collection are outlined in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR part 391, subpart E. The FMCSRs in § 391.41(b)¹ set forth the

¹ 49 CFR 391.41; Physical qualifications for drivers. Available at <https://www.ecfr.gov/current/>

physical qualification standards that individuals operating CMVs in interstate commerce who are subject to part 391 must meet. The FMCSRs covering the performance of the CMV physical qualification examination of individuals who operate in interstate commerce by an ME and the related recordkeeping requirements are found at § 391.43. The results of the examination must be recorded in accordance with the requirements set forth in that section; they include preparing and maintaining a Medical Examination Report Form, MCSA-5875, and, if the individual is physically qualified, issuing a Medical Examiner's Certificate, Form MCSA-5876.

The FMCSRs in § 391.41(b)(1) through (13) generally include the physical qualification standards required for the medical certification of individuals who operate a CMV in interstate commerce. The physical qualification standards in § 391.46 address the physical qualification requirements for medical certification of individuals who are diagnosed with diabetes mellitus and are treated with insulin. However, the FMCSRs do not specifically address individuals who are diagnosed with diabetes mellitus and are treated with non-insulin therapy. The type of diabetes mellitus that is not treated with insulin (commonly known as Type 2 diabetes) is recognized as a health concern for the general public.

Non-insulin-treated diabetes mellitus that is not properly managed and controlled may result in diabetes complications and/or target organ damage and in the individual's physical condition being inadequate to enable the driver to operate a CMV safely. The physical qualification standards in the FMCSRs broadly address some of the conditions and symptoms that may be attributable to complications from non-insulin-treated diabetes mellitus. Examples include the loss of limb and limb impairment standards (§ 391.41(b)(1) and (2)); the cardiovascular standard (§ 391.41(b)(4)); the rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular standard (§ 391.41(b)(7)); and the loss of consciousness standard (§ 391.41(b)(8)).

In performing a thorough assessment and evaluation of an individual diagnosed with non-insulin-treated diabetes mellitus, the ME may need to consult with the individual's treating healthcare provider who manages the individual's diabetes. The ME may find this helpful in determining whether the individual has any medical conditions

or symptoms, such as frequent episodes of severe hypoglycemia, that may prevent the individual from meeting the physical qualification standards and receiving a Medical Examiner's Certificate, Form MCSA-5876. This voluntary collection would assist the ME by ensuring that the treating healthcare provider includes the appropriate information, via the Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872, in a standardized manner, which would assist the ME in making an informed and sound physical qualification determination.

In May 2021, FMCSA's Medical Review Board (MRB) deliberated on the topic and contents of a draft Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872 (Task 21-2). FMCSA directed the MRB to review and comment on whether the information on the proposed form provided sufficient information concerning the treatment, management, and control of an individual's non-insulin-treated diabetes mellitus condition to assist a ME in making an appropriate physical qualification determination. The Agency also requested that the MRB identify any areas of ambiguity as well as additional information that FMCSA should include on the form. Based on its review, the MRB made some recommendations to improve the clarity and quality of information on the Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872, which is provided from the individual's treating healthcare provider to the ME.

There is no required collection frequency for the Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872, because the use of this IC is voluntary and at the discretion of the ME.

The Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872, will be available as a fillable pdf and may be downloaded from the FMCSA website. Treating healthcare providers may provide the form to the individual, or fax or scan and email the form directly to the ME. Consistent with OMB's commitment to minimizing respondents' recordkeeping and paperwork burdens and the increased use of secure electronic modes of communication, the Agency anticipates that approximately 50 percent of the Non-Insulin-Treated Diabetes Mellitus Assessment Forms, MCSA-5872, will be transmitted electronically.

The information collected on the Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872, will be used by the ME who requests

completion of the form and will not be available to the public. The Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872, will become a part of the individual's physical qualification examination records that are maintained and retained by the ME for a period of at least 3 years from the date of the examination.²

Title: Non-Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5872.

OMB Control Number: 2126-00XX.

Type of Request: New collection.

Respondents: Treating healthcare providers of individuals who are diagnosed with non-insulin treated diabetes mellitus who operate CMVs.

Estimated Number of Respondents: 242,057 respondents.

Estimated Time per Response: 8 minutes.

Expiration Date: N/A. This is a new ICR.

Frequency of Response: Other (Voluntary use at the medical discretion of the ME).

Estimated Total Annual Burden: 32,274 hours.

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

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0233]

Crash Preventability Determination Program

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

² The burden for the ME to file and retain the driver examination forms is covered in the Medical Qualification Requirements ICR, OMB Control Number 2126-0006, which is currently due to expire on March 31, 2025.