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LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILED

12/31/2024 11:47 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Medical Qualification for a CDL or CLP

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT: Ty Yoder
503-945-5256
Ty.M.YODER@odot.oregon.gov

1905 Lana Ave NE
Salem, OR 97301

Filed By:
Winnie Dawn
Rules Coordinator

NEED FOR THE RULE(S)

The requirement for holders of Commercial Driver Licenses (CDLs) and Commercial Learner Permits (CLPs) to maintain updated medical information is already established in Oregon Administrative Rules (OAR). This rule change modifies the process for how CDL and CLP holders provide that information. Instead of submitting a Medical Examiner's Certificate directly to DMV, the medical examiner will now upload the driver's medical certification information to the National Registry of Certified Medical Examiners (National Registry). The medical qualification information will be electronically transmitted from the National Registry to the DMV or will be provided through the Commercial Driver's License Information System when Oregon becomes the CDL or CLP holder's state of record. This is required by federal regulation. The change aims to reduce fraud, increase safety and ensure accurate information is available.

Below is a summary of the changes DMV is proposing for each rule:

- OAR 735-063-0205: DMV proposes to add the definition of "National Registry of Certified Medical Examiners" or "National Registry."
- OAR 735-063-0220: DMV proposes to change how drivers prove their medical qualifications for Commercial Driver Licenses (CDLs) and Commercial Learner Permits (CLPs). Instead of submitting an unexpired Medical Examiner's Certificate to DMV, drivers will now have their medical certification information electronically transmitted from the National Registry to DMV. The medical certification information will indicate whether the driver is medically qualified to operate a Commercial Motor Vehicle (CMV).
- OAR 735-063-0230: DMV proposes to amend this rule to align with federal requirements. Under the amended rule, DMV must electronically receive valid medical certification information from the National Registry for anyone applying for or renewing a CDL or CLP. This proof of medical qualification is necessary to receive or maintain commercial driving privileges and to continue operating a CMV.
- OAR 735-063-0340: DMV proposes to update this rule to comply with new federal standards. Under the revised rule, drivers with a CDL or CLP will have their licenses canceled if updated proof of medical qualification is not available

from the National Registry when requested by DMV or is denied, expired, rescinded, voided or revoked. Additionally, DMV proposes updates to the rule that clarify how a person may apply to regain a canceled Oregon commercial driving privilege.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Extension of Compliance Dates for Medical Examiner's Certification Integration final rule, Docket No. FMCSA-2018-0152, Federal Register / Vol. 86, No. 117 / Tuesday, June 22, 2021 / Rules and Regulations - To view the document go to <https://www.fmcsa.dot.gov/regulations/federal-register-documents/2021-13177> and select "view PDF".

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

As previously noted, the requirement for holders of CDLs and CLPs to maintain updated medical information is already established in OAR. This rulemaking eliminates the obligation for drivers to submit a Medical Examiner's Certificate to DMV, reducing a minor barrier for CDL drivers. However, DMV does not believe this change impacts racial equity in the state.

FISCAL AND ECONOMIC IMPACT:

See statements below.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Public – CDL drivers will no longer need to submit a Medical Examiner's Certificate (MEC) to DMV. This change may lead to fewer cancellations due to drivers failing to provide updated MECs. A driver whose CDL or CLP was canceled would have been ineligible to operate a CMV, potentially resulting in lost wages. However, DMV cannot quantify the financial impact on drivers, as schedules and pay vary widely among individuals.

DMV – DMV will save staff time because medical information will now be sent electronically from the National Registry to DMV. This eliminates the need for DMV staff to obtain the MEC directly from drivers and manually enter that information into the DMV driver records. As a result, DMV staff will have more capacity to focus on other assigned tasks.

(2) There is no cost of compliance for small businesses. In fact, small businesses, including small trucking companies, may experience a cost benefit from the new system, as the automated process will eliminate the need to produce a paper Medical Examiner's Certificate.

(2)(a) None. Small businesses are not directly subject to the rule because DMV issues CDP to individual drivers.

(2)(b) None.

(2)(c) There is no cost of compliance for small businesses. Medical examiners are already uploading medical examiner information to the registry in accordance with federal regulations.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

DMV sent draft rules to 14 organizations representing small businesses. No responses were received.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

This change aligns the rules with federal requirements and benefits both CDL and CLP drivers, as well as the small

businesses that employ them.

RULES PROPOSED:

735-063-0205, 735-063-0220, 735-063-0230, 735-063-0340

AMEND: 735-063-0205

RULE SUMMARY: DMV proposes to add the definition of "National Registry of Certified Medical Examiners" or "National Registry."

CHANGES TO RULE:

735-063-0205

Definitions ¶¶

Except as otherwise provided in these OAR 735, division 63, rules, the following definitions apply to OAR 735, division 63:¶¶

- (1) "AAMVA" means the American Association of Motor Vehicle Administrators.¶¶
- (2) "Accident records" include, but are not limited to DMV records, police reports, crash reports or other reports from motor carriers.¶¶
- (3) "CDL" means commercial driver license.¶¶
- (4) "CDLIS" means the Commercial Driver's License Information System operated by AAMVA for FMCSA.¶¶
- (5) "CDL Third Party Examiner" means an individual certified by DMV to administer CDL skills tests through a CDL Third Party Tester.¶¶
- (6) "CDL skills test" means a three-part test to determine a CDL applicant's driver competency, consisting of: a pre-trip vehicle inspection, a basic control skills test and an on-road drive test.¶¶
- (7) "CDL Third Party Tester" means a person authorized by DMV to operate a CDL skills testing program and provide CDL Third Party Examiner(s) to administer CDL skills test.¶¶
- (8) "CLP" means a commercial learner driver permit issued under ORS 807.285.¶¶
- (9) "CMV" means commercial motor vehicle, as defined in ORS 801.208.¶¶
- (10) "Commercial driving privileges" or "CDP" has the meaning set forth in ORS 801.207.¶¶
- (11) "Conviction record" means an official record showing a determination of guilt by a court of law upon a plea, verdict, finding, or unvacated bail forfeiture.¶¶
- (12) "CSTIMS", means the Commercial Skills Test Information Management System, a web-based system for scheduling and reporting CDL skills tests information and results.¶¶
- (13) "DACH" means the FMCSA Drug and Alcohol Clearinghouse.¶¶
- (14) "Disqualifying condition" means one or more medical conditions not meeting FMCSA physical qualification standards as set forth in 49 CFR 391.41(b).¶¶
- (15) "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services Division.¶¶
- (16) "Driving type" means a certification by an applicant or holder of a CDL or CLP for one of the following:¶¶
 - (a) Non-excepted interstate: the person operates or expects to operate in interstate commerce;¶¶
 - (b) Excepted interstate: the person operates or expects to operate in interstate commerce but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68 or 398.3; or¶¶
 - (c) Non-excepted intrastate: the person operates only in intrastate commerce.¶¶
- (17) "ELDT" means Entry-Level Driver Training required under 49 CFR Part 380, Subpart F.¶¶
- (18) "Fifth wheel hitch" has the meaning set forth in ORS 801.275.¶¶
- (19) "FMCSA" means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.¶¶
- (20) "First-time Real ID" means the first time DMV issues an Oregon Real ID to an applicant and may be issued as an original, renewal or replacement driver license, driver permit or identification card, depending on the privilege that the applicant possesses.¶¶
- (21) "Intrastate commerce" has the meaning set forth in 49 CFR § 390.5 and includes any trade, traffic or transportation taking place exclusively within Oregon.¶¶
- (22) "Lawful status" means, for the purpose of applying for a Real ID driver license, driver permit or identification card, has the meaning set forth in 6 CFR §37.3.¶¶
- (23) "Medical Determination Officer" means a physician, nurse practitioner or physician associate, licensed to provide health care services by the State of Oregon, and is employed or designated by DMV to make medical determinations of a driver's medical eligibility for driving privileges.¶¶
- (24) "Medical Specialist" means a person who is licensed as a doctor of medicine, a doctor of osteopathic medicine,

an optometrist or an audiologist.¶

(25) "National Registry of Certified Medical Examiners" or "National Registry" means the database that lists certified medical examiners authorized to conduct physical examinations for CMV drivers and provides current information on a CMV driver's medical qualifications.¶

(26) "Physician" has the meaning set forth in ORS 807.710.¶

(267) "Real ID" has the meaning set forth in ORS 807.450, and is marked with the distinguishing feature of a star in the upper right corner.¶

(278) "SPE certificate" means a Skill Performance Evaluation certificate issued by FMCSA pursuant to 49 CFR 391.49 to a person who demonstrates the ability to safely operate a CMV in spite of limb impairment or loss.¶

(289) "TPR" means the Training Provider Registry, an electronic system operated by FMCSA to list certified training providers and provide access to training providers to report ELDT completion information.¶

(2930) "Waiver of Physical Disqualification" or "waiver" means a waiver issued by DMV to a driver who does not meet certain physical qualifications required for drivers of CMVs as set forth in 49 CFR 391.41(b).

Statutory/Other Authority: ORS 184.619, 802.010, 807.450, 807.460, 6 CFR 237.3

Statutes/Other Implemented: ORS 807.040, 807.100, 807.450

AMEND: 735-063-0220

RULE SUMMARY: DMV proposes to change how drivers prove their medical qualifications for Commercial Driver Licenses (CDLs) and Commercial Learner Permits (CLPs). Instead of submitting an unexpired Medical Examiner's Certificate to DMV, drivers will now have their medical certification information electronically transmitted from the National Registry to DMV. The medical certification information will indicate whether the driver is medically qualified to operate a Commercial Motor Vehicle (CMV).

CHANGES TO RULE:

735-063-0220

Proof of Medical Qualification for a CDL or CLP ¶

(1) Proof of medical qualification for a CDL or CLP for a person who certifies a driving type of non-excepted interstate is:¶

(a) A CDLIS driver record that indicates the person is medically certified as physically qualified to operate a CMV in interstate commerce; or ¶

~~(b) A valid unexpired Medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.43~~ medical certification information transmitted electronically from the National Registry and posted to the CDLIS driver record that indicates the person is physically qualified to operate a CMV in interstate commerce. When indicated in the medical certificate, the Medical Examiner's Certificate must be accompanied by one or both of the following information that the driver must have a federal exemption or SPE certificate, one or both of the following must be electronically transmitted from the FMCSA:¶

(A) A valid unexpired notice of exemption issued by FMCSA under the provisions of 49 CFR 381.300 to 381.330.¶

(B) A valid unexpired SPE certificate issued by FMCSA under the provisions of 49 CFR 391.49.¶

(2) Proof of medical qualification for a CDL or CLP for a person who certifies a driving type of excepted interstate or non-excepted intrastate is:¶

~~(a) The proof required under section (1)(a) of this rule~~ A CDLIS driver record that indicates the person is medically certified as physically qualified to operate a CMV in excepted interstate or non-excepted intrastate; or¶

~~(b) A valid unexpired Medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.41~~ medical certification information transmitted electronically from the National Registry and posted to the CDLIS driver record that indicates the person is physically qualified to operate a CMV in intrastate commerce. When indicated in the medical certificate, the Medical Examiner's Certificate must be accompanied by information, the CDLIS driver record must include a valid unexpired Waiver of Physical Disqualification issued by DMV under the conditions described in OAR 735-063-0240.¶

~~(3) A Medical Examiner Certificate, notice of exemption, SPE certificate and a Waiver of Physical Disqualification is valid for up to~~ DMV may require valid medical certification information to be electronically transmitted from the National Registry two years.¶

~~(4) DMV may require a valid unexpired MDMV that shows the medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.43 be submitted showing it~~ ion was issued after the date of a mandatory or non-mandatory report submitted on the driver that resulted in DMV taking action under the At-Risk Driver Program.¶

~~(5)~~ For purposes of section (4) of this rule, when indicated in the Mmedical Examiner's Certificate, the certificatecertification information transmitted from the National Registry the certification information must be accompanied by one or more of the following: a notice of exemption, SPE certificate or a Waiver of Physical Disqualification.¶

(5) The National Registry electronically transmits medical certification information for CDL and CLP applicants and holders, voided medical examiner certifications, any medically unqualified status, and rescinded federal exemptions and SPE certificates.

Statutory/Other Authority: ORS 184.619, 802.010, 807.040, 807.100

Statutes/Other Implemented: ORS 807.040, 807.100, 49 CFR 383.71, 49 CFR 383.73, 49 CFR 391.41 - 391.49

AMEND: 735-063-0230

RULE SUMMARY: DMV proposes to amend this rule to align with federal requirements. Under the amended rule, DMV must electronically receive valid medical certification information from the National Registry for anyone applying for or renewing a CDL or CLP. This proof of medical qualification is necessary to receive or maintain commercial driving privileges and to continue operating a CMV.

CHANGES TO RULE:

735-063-0230

Medical Qualification Procedures for CDL or CLP ¶¶

(1) An applicant for a CDL or CLP must ~~have proof of medical~~ be medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a CMV by a medical examiner, as described in OAR 735-063-0220. DMV will not issue a CDL or CLP if any 49 CFR 390.5. The medical certification information is uploaded by a medical examiner to the National Registry and transmitted electronically to DMV. The information provided to DMV is proof of medical qualification ~~i, as denied, expired, rescinded, voided or revoked. ¶¶~~

(2) An applicant for a CDL or CLP who certifies a driving type of non-excepted interstate must also certify on the application or renewal form that the applicant meets the driver qualification requirements ~~contascribed in OAR 735-063-0220. DMV will not issue a CDL or CLP if the person does not have a valid Medical Examiner's Certification on file or if DMV receives information from the National Registry that a person's proof of medical qualification is denied, rescinded in 49 CFR part 391, voided or revoked. ¶¶~~

(3) ~~2~~ To maintain proof of medical qualification to operate a CMV, the holder of a CDL or CLP must have a valid ~~M~~ medical Examiner's Certificate. Proof of medical qualification must be provided to DMV when requested. If proof is not provided as required following the expiration of the holder's current proof of medical qualification as described in OAR 735-063-0220, DMV will cancel the holder's commercial driving privileges as provided in OAR ~~735-063-0340~~ certification information in the CDLIS driver record. Proof of medical qualification must be electronically transmitted from the National Registry to DMV to be accepted by DMV. ¶¶

(4) ~~3~~ DMV is not responsible for any expenses ~~an CDL or CLP applicant may incur for the acquisition of a valid Medical Examiner's Cor holder may incur to obtain and maintain medical certificateion or duplicate Medical Examiner's Certificate~~ to update the National Registry.

Statutory/Other Authority: ~~ORS 184.616, 184.619, 802.010, 807.040~~

Statutes/Other Implemented: ORS 807.040, 807.100, 807.150

AMEND: 735-063-0340

RULE SUMMARY: DMV proposes to update this rule to comply with new federal standards. Under the revised rule, drivers with a CDL or CLP will have their licenses canceled if updated proof of medical qualification is not available from the National Registry when requested by DMV or is denied, expired, rescinded, voided or revoked. Additionally, DMV proposes updates to the rule that clarify how a person may apply to regain a canceled Oregon commercial driving privilege.

CHANGES TO RULE:

735-063-0340

Cancellation or Suspension of Commercial Driving Privileges CDP Due to No Valid Proof of Medical Qualification or Failure to Have Restriction on the CDL or CLP when Required ¶

- (1) DMV ~~wi~~shall cancel a person's ~~commercial driving privileges if any~~CDP when the person's proof of medical qualification, as described in OAR 735-063-0220, is denied, ~~expired~~, rescinded, voided or revoked.¶
- (2) DMV ~~wi~~shall cancel a person's ~~commercial driving privileges if~~CDP when the person's proof of medical qualification, as described in OAR 735-063-0220, is not ~~submitted when requested by DMV.~~¶
- ~~(3) When a person's commercial driving privileges have been cancelled~~updated through the National Registry when requested by DMV. ¶
- ~~(3) After DMV cancels a person's CDP under sections (1) or (2) of this rule, DMV will restore the person's commercial driving privileges if the person submits~~the person may apply to regain Oregon CDP. When the person applies for CDP, DMV must receive proof of medical ~~qual~~certification as described in OAR 735-063-0220. DMV will issue CDP to the person only if the CDLIS driver record indicates the person is medically certified to operate a CMV and all other requirements for issuance of CDP are met.¶
- (4) Failure of a person to obtain ~~the~~ a "V" restriction, as required by OAR 735-063-0300(8), within the time period specified by DMV will result in cancellation of the person's ~~commercial driving privileges~~CDP, in accordance with ORS 807.010(1) and 809.310(1).¶
- ~~(5) Failure of a person to obtain the~~After DMV cancels a person's CDP under sections (4) of this rule, the person may apply to regain an Oregon CDP. DMV will issue CDP to the person only if the CDLIS driver record indicates a "V" restriction has been added to the CDP credential or the person no longer requires a federal variance to be medically certified for a CDP and all other requirements for issuance of CDP are met.¶
- ~~(6) Failure of a person to obtain a "K" restriction, as required by OAR 735-063-0300(5), within the time period specified by DMV will result in cancellation of the person's commercial driving privileges~~CDP, in accordance with ORS 807.010(1) and 809.310(1).¶
- ~~(6) DMV will suspend, for one year, a person's commercial driving privileges and the person's right to apply for commercial driving privileges if DMV determines that the person submitted false information to DMV for the purpose of establishing or maintaining qualification to operate a CMV; or hold a CDL or a CLP~~After DMV cancels a person's CDP under sections (6) of this rule, the person may apply to regain an Oregon CDP. DMV will issue CDP to the person only if the CDLIS driver record indicates a "K" restriction has been added to the CDP credential or the intrastate only restriction is no longer required and all other requirements for issuance of CDP are met.¶
- ~~(8) A person whose CDP has been cancelled under sections (1) (2) (4) or (6) of this rule may be issued a Class C noncommercial driver license described in ORS 807.031(5) or an identification card described in ORS 807.400, if all other requirements for issuance are met.~~

Statutory/Other Authority: ORS 184.619, 802.010, 807.040, 807.100, ~~809.415(6)~~

Statutes/Other Implemented: ORS 807.040, 807.100, ~~809.415(6)~~