



DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Docket No. FMCSA-2012-0132

Privacy Act of 1974; System of Records Notice

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

ACTION: Notice to establish a new system of records.

SUMMARY: The Department of Transportation's (DOT) Federal Motor Carrier Administration (FMCSA) intends to establish a new Federal Motor Carrier system of records titled "DOT/FMCSA 009 – National Registry of Certified Medical Examiners" (National Registry), under the Privacy Act of 1974 (5 U.S.C. 552a).

The DOT system, known as the National Registry of Certified Medical Examiners (National Registry), is used to produce trained, certified medical examiners who fully understand the medical standards in the Federal Motor Carrier Safety Regulations (FMCSRs). Medical Examiners (MEs) will be expected to understand how the FMCSR standards relate to the mental and physical demands of operating a commercial motor

vehicle (CMV). MEs will be required to successfully complete training and pass a certification test before being listed on the National Registry. Once the National Registry program is established, FMCSA will require all interstate CMV drivers to obtain their medical certificates from a medical examiner listed on the National Registry. The general public can search and access information about the National Registry program, including the program description, contact information, and National Registry Number for all FMCSA Certified MEs , Test Delivery Organizations and their affiliated Test Centers through the publicly available website

MEs who choose to pursue FMCSA certification to conduct CMV medical exams will register with FMCSA through the National Registry website. FMCSA will track the MEs' status of completion of the required FMCSA medical examiners' certification process. The MEs will be required to successfully complete FMCSA-approved training prior to taking the FMCSA ME certification test at an FMCSA-approved testing organization, at an affiliated test center's facility, or by means of online testing.

Test Developers for FMCSA will create and revise the certification test questions and answers that will be administered by Test Centers. Test Developers will analyze medical examiner's test certification responses to identify future improvements and modifications to test questions. They will also analyze the test questions and answers to identify potential patterns of fraud and abuse in the testing process and medical community.

The Test Centers will verify and document the ME's identity, medical licensing, and training completion prior to administering the FMCSA ME certification test. Test

Centers will administer the FMCSA Certification test according to FMCSA specifications and are responsible for submitting the medical examiner certification test results to the National Registry. Testing organizations that offer testing of MEs by means of online testing will provide a means to authenticate the identity of the person taking the test, to monitor the activity of the person taking the test, and to prevent the person taking the test from reproducing the contents of the test. FMCSA will validate the test results, medical examiner licensing credentials and training, and notify the ME of certification.

The Certified Medical Examiner or their administrative personnel are required to submit data every month to the National Registry for each CMV driver medical examination they have conducted during the previous month. FMCSA will use the CMV driver medical exam information to monitor the ME competence and performance in evaluating the CMV driver health and fitness and to detect irregularities in examination procedures. Certified Medical Examiners and their administrative personnel have the option to register with FMCSA in order to view previously submitted CMV driver medical exam summary data, upload driver medical examination summary data to FMCSA and edit their medical examiner's contact information.

The National Registry is more thoroughly detailed below and in the associated Privacy Impact Assessment (PIA). . The PIA can be found on the DOT Privacy Website at <http://dot.gov/privacy>. This newly established system will be included in the Department of Transportation's inventory of record systems.

DATES: Effective date is May 17, 2012. Written comments should be submitted on or before the effective date. DOT/FMCSA may publish an amended SORN in light of any comments received.

ADDRESSES: You may submit comments, identified by Docket No. FMCSA-2012-0132], by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Department of Transportation Docket Management, Room W12-140, 1200 New Jersey Ave., SE., Washington, DC 20590

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to <http://www.regulations.gov>. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Elaine Papp, (202) 366-0421, Division Chief, Division of Medical Programs, Office of Carrier, Driver and Vehicle Safety, Federal Motor Carrier Safety Administration, U.S.

Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.
For privacy issues, please contact: Claire W. Barrett (202-366-8135), Departmental
Chief Privacy Officer, Department of Transportation, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. The National Registry Program

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Federal Motor Carrier Administration (FMCSA) proposes to establish a new DOT system of records titled “DOT/FMCSA 009 – National Registry of Certified Medical Examiners” (National Registry) to satisfy the requirements of 49 USC § 31149.

The National Registry program is designed to produce trained, certified medical examiners who fully understand the medical standards in the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA is developing the National Registry program to improve highway safety and driver health by requiring that medical examiners be trained and certified to determine effectively whether a commercial motor vehicle driver’s health meets the FMCSR standards. Medical examiners will be expected to understand how the standards relate to the mental and physical demands of operating a commercial motor vehicle (CMV). Once the National Registry program is established, FMCSA will require all interstate CMV drivers to obtain their medical certificates from a medical examiner listed on the National Registry. FMCSA will require MEs who choose to become certified to register on the National Registry website. They will need to provide

contact information, ME credentials, employer information and ME training information.

MEs will be able to update and edit their contact information and training information.

To be listed as a certified ME on the National Registry, an ME must complete approved training and pass a certification test administered at a Test Center or by means of online testing by an FMCSA-approved Testing Delivery Organization. Once certified, an ME will be listed on FMCSA's public website and their contact information and National Registry Number will be made available to assist CMV drivers in contacting locating FMCSA certified MEs.

FMCSA requires MEs to take a certification test at selected Testing Delivery Organization, affiliated Test Center facility, or by means of on-line testing. A Testing Delivery Organization may apply to FMCSA for approval by providing documentation of compliance with FMCSA policies and procedures. Once FMCSA has approved a Testing Delivery Organization as eligible to deliver certification tests, the organization and affiliated Test Centers will be listed on the National Registry and made available to the public through the FMCSA website. The Testing Delivery Organization and affiliated Test Centers are not covered by this system of records notice.

The Testing Delivery Organization/Test Center is responsible for administering the FMCSA ME certification test according to FMCSA specifications, scoring and storing test results, and transferring each ME's certification test results to the National Registry. The test results will include the ME's National Registry number, test form used, all test answers, score, and grade for the ME. FMCSA will use automated and manual processes to determine if the ME's state medical license is valid before confirming the ME's certification eligibility. Once FMCSA makes a final eligibility determination,

FMCSA will notify the ME of the certification decision. Test Developers will analyze the certification exam test results to identify future improvements and modifications to the test questions. They will also analyze the test questions and answers to identify potential patterns of fraud and abuse in the testing process.

Once certified, the ME may perform CMV driver exams on CMV drivers who are required to receive a physical exam once every two years. Every month, the FMCSA Certified Medical Examiner or his or her designated administrative personnel are required to transmit to the National Registry at least monthly the results of CMV driver medical examinations that they have performed. FMCSA will use the CMV driver medical exam information to monitor ME competence and performance in evaluating the CMV driver health and fitness and to detect irregularities in examination procedures. Certified Medical Examiners and their administrative personnel have the option to register with FMCSA in order to allow them to view previously submitted CMV driver medical exam summary data, upload driver medical examination summary data to FMCSA and edit their medical examiner's contact information.

II. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A "System of Records" is a group of any records under the control of a federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the Federal Register a

System of Records notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them and to contest inaccurate information).

FMCSA has published a Privacy Impact Assessment (PIA) for the National Registry program and publication of this SORN. In accordance with 5 USC 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NUMBER: DOT/FMCSA 009

SYSTEM NAME: National Registry of Certified Medical Examiners (National Registry)

SECURITY CLASSIFICATION: Unclassified, Sensitive

SYSTEM LOCATION: Records are maintained at the Volpe National Transportation Systems Center (Volpe Center), U.S. Department of Transportation, Cambridge, MA 02142. Records may also be maintained at authorized Test Delivery Organizations,

addresses for which may be found on the FMCSA National Registry website.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Categories of individuals covered by this include:

- Medical Examiners (MEs) applying for FMCSA ME Certification.
- Certified MEs' administrative personnel who have registered on the National Registry.
- Commercial Motor Vehicle (CMV) Drivers examined by FMCSA Certified MEs.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM: The National Registry of Certified Medical Examiners system collects, processes, transmits, and stores the following types of information:

(1) Information on Medical Examiners:

- Identity Verification
 - Full name (first, last, middle initial)*
 - Type of ME photographic identification document
 - Expiration date of ME photographic identification document
 - National Registry Number created by FMCSA*
- Contact Information / Place of Business (physical location where ME will perform licensed CMV driver medical exams)
 - Business name*
 - Business address

- Business telephone number
- Business email address
- Business website link information
- Medical Credential
 - State Medical License Number*
 - Medical License State of Issue
 - State medical license expiration date
 - Medical profession*
- Employer Contact (Health care provider that employs the ME)
 - Name
 - Address
 - Telephone number
 - Email address
- Training Information
 - Training received/completed
 - Provider name
 - Training provider address
 - Training completion date
- Certification Test Information
 - Test Delivery Organization/Test Center name
 - Date of certification test
 - Certification test questions
 - Certification test answers

- Test score (numeric)
- Test results (pass/fail)
- Certification Decision/Status

Data elements marked with an asterisk “*” are collectively referred to as “National Registry Identity” information.

(2) MEs’ Administrative Personnel

- Identity Verification Information
 - Full name (first, last, middle initial)
- ME Business Relationship
 - Business address
 - Business telephone number
 - Business email address
 - Business website link information
 - Name of ME for whom the individual is acting as administrative personnel
 - Certified ME National Registry number of ME for whom the individual is acting as administrative personnel

(3) Commercial Motor Vehicle Drivers’ Information:

- Identity Verification
 - Full name
 - Date of birth
- State Driver’s License

- License number
- License issuing State
- Commercial Driver License (CDL) status
- CDL Interstate status
- Medical Examination
 - Certificate expiration date
 - Name of ME conducting Medical Exam
 - Medical qualification decision
 - Driver restrictions/variances
 - Driver waiver/exemption type
 - Supporting medical documentation for medical qualification decision making (collected only in event of FMCSA oversight/audit activity)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SAFETEA-LU sections 4116(a) (codified as amended at 49 U.S.C. 31149) and 4116(b) (codified as amended at 49 U.S.C. 31136(a)(3)).

PURPOSE(S):

FMCSA will use the ME contact information, medical credentials, training, certification test and identification information to evaluate the ME's eligibility for certification.

FMCSA may request and review ME supporting documentation for eligibility of certification. FMCSA will compare the ME's identity verification, contact and medical licensing information to the State's medical licensing data provided by the ME during registration in order to ensure the data provided by the ME is valid. FMCSA reviews the ME test responses in order to validate the test grade and score provided by the Test Center and to ensure that the Test Center properly graded and scored the test. FMCSA will use the ME contact and ME employer information to list eligible FMCSA certified MEs on the publically available website for the general public to search for MEs.

FMCSA will use the FMCSA ME contact information including that of their business and/or employer and/or their designated ME administrative personnel (if identified), to communicate with the ME regarding the ME's application and certification status.

FMCSA will use the CMV driver medical exam information to monitor the ME competence and performance in evaluating the CMV driver's health and to detect irregularities in examination procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- To the Test Centers verify the ME's identity and eligibility to take the ME Certification test, to make changes to ME information (at the direction of the ME) in the National Registry at the time Certification test, and to transfer Certification test information to the National Registry.
- To Test Development Contractors who will use the ME Certification test results, ME profession, and geographic location to analyze the certification test results to identify future improvements and modifications to the test questions and to identify potential patterns of fraud and abuse in the testing process by individual medical examiner candidates, testing organizations, testing centers, or proctors.
- To FMCSA Certified MEs or their Administrative Personnel to search for CMV drivers for whom they have performed medical examinations and submit/update CMV driver medical exam summary data to FMCSA.
- To the general public to perform searches of the publically available portion of the National registry for the purpose of identifying FMCSA Certified MEs and the location of medical examination facilities.
- To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.
- To contractors, consultants, and others performing or working on a contract, cooperative agreement, grant, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FMCSA employees.

- To State Medical Boards for the purposes of verifying ME license information and status. (State Medical Boards are the authoritative repositories for ME license information and, as such, already have access to ME licensing information and the verification of the same by the Department does not constitute a disclosure under the Privacy Act. This Routine Use is included in this Notice in an effort by the Department to be transparent to the public regarding the way it which it will use personal information maintained in the National Registry system of records.)
- In addition to those disclosures permitted under 5 USC 552a(b) of the Privacy Act of 1974, additional disclosures may be made in accordance with the U.S. Department of Transportation (DOT) Prefatory Statement of General Routine Uses published in the Federal Register on December 29, 2010 (75 FR 82132).

DISCLOSURE TO CONSUMER REPORTING AGENCIES: None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

Storage:

Records in this system are stored electronically in the National Registry system. The records are also stored on backup tapes and sent off-site weekly to a secure storage facility.

Retrievability:

FMCSA may retrieve ME information based on ME name, business name, employer address, medical profession, and/or National Registry number. FMCSA may retrieve information on CMV drivers based on: driver's last name, and exam start and end date range. MEs may access information on CMV drivers for whom they have submitted exam results using the following criteria: driver's last name, or exam start and end date range. Testing Delivery Organizations/Test Centers may access ME information for the purposes of verifying ME identity and certification eligibility using the ME Name, address and/or National Registry number to verify the ME's eligibility and identification.

Accessibility (Including Safeguards):

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Federal and DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances and permissions.

Retention and Disposal:

The DOT/FMCSA records schedule for the National Registry program records is currently pending approval at the National Archives and Records Administration (NARA) under Job Number N1-557-11-2. All records maintained in this system of records will be treated as permanent records until the schedule is approved by NARA. The proposed schedule includes the following retention periods for records containing PII: National Registry Identity Information for all MEs granted National Registry status shall be retained for 60 years from the date that certification was granted. Records other than National Registry Identity information of MEs who are certified will be retained for 16 years (the duration of the certificate's effectiveness, which is ten (10) years, plus an additional six (6) years to allow employers and investigators to verify the validity of CMV drivers' medical certification and to allow FMCSA to process ME removals and Administrative Reviews of removals).

National Registry applications of MEs who do not complete the certification process will be maintained for one year from initial application submission.

National Registry applications of MEs who fail the qualification test or are deemed ineligible for certification by DOT will be maintained for one year from the date of the certification decision.

Records of MEs who voluntarily request removal from the National Registry will be maintained for three years from the date the removal is finalized by DOT.

National Registry Identity Information for all MEs involuntarily removed from the National Registry shall be retained for 60 years from the date that certification was

granted. All other records related to these MEs shall be retained for 16 years (the duration of the certificate's effectiveness, which is ten (10) years, plus an additional six (6) years to allow employers and investigators to verify the validity of CMV drivers' medical certification and to allow FMCSA to process ME removals and Administrative Reviews of removals).

Records of individual CMV Drivers will be maintained concurrently with the records of the ME who performed the driver's medical examination.

Records of the ME's administrative personnel will be maintained concurrently with the records of the ME for whom they provide services or for one year from the date that the Department is notified that the individual is no longer authorized to perform duties in the system on behalf the ME, whichever is shorter.

System Manager and Address:

Elaine Papp, Division Chief, Division of Medical Programs, Office of Carrier, Driver and Vehicle Safety, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

Notification Procedure:

Individuals wishing to know if their records appear in this system may make a request in writing to the System Manager. The request must include the requester's name, mailing address, telephone number, and/or email address; a description and the location of the

records requested; and verification of identity (such as a statement, under penalty of perjury), that the requester is the individual who he or she claims to be. Requests must conform to the Privacy Act regulations set forth in 49 CFR part 10. You must verify your identity by providing either a notarized statement or a statement signed under penalty of perjury stating that you are the person that you say you are. You may fulfill this requirement by: (1) Having your signature on your request letter witnessed by a notary; or (2) including the following statement immediately above the signature on your request letter: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]." If you request information about yourself and do not follow one of these procedures, your request cannot be processed. Requests not following these procedures will not be processed.

Record Access Procedures:

Same as indicated under "Notification Procedure".

Procedure to Contest Records:

Same as indicated under "Notification Procedure".

Record Source Categories:

ME information is obtained from application submissions provided by the medical examiner. CMV driver information is provided by the driver at the time of medical examination to the ME for submission to FMCSA.

Exemptions Claimed for the System: None

Dated: April 17, 2012

Claire W. Barrett,

Departmental Chief Privacy Officer, Department of Transportation