



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 [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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. 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, 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.

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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