evaluation according to the same procedures and testing criteria used by FMCSA. If the driver passes the skill evaluation, the State issues the SPE certificate. Virginia maintains records of applications, testing, and certificates issued, which are available, as required, for periodic review by FMCSA. On behalf of CMV drivers licensed in the Commonwealth of Virginia, the State requested renewal of the exemption from 49 CFR 391.49 concerning FMCSA's SPE certificate process for drivers who have experienced an impairment or loss of a limb.

II. Basis for Renewing Exemption

The Agency's decision regarding this exemption is based on the fact that Virginia's SPE program is essentially identical to the current FMCSA program. Virginia continues to adhere to the application process modeled on the FMCSA process. State personnel who conduct the skill evaluation complete the same training as FMCSA personnel conducting the test and follow the same procedures and testing criteria used by FMCSA. FMCSA has conducted ongoing monitoring and onsite SPE program reviews and Virginia continues to maintain records of applications, testing, and certificates issued for periodic review by FMCSA. At the time Virginia DMV submitted its request for exemption renewal to the Agency, it had issued 13 new and 25 renewal SPE certificates. Based upon FMCSA's analyses of the applications and the program as a whole, FMCSA has determined that no safety vulnerabilities are associated with Virginia's renewal request. The renewal of the exemption is granted.

Consequently, FMCSA has concluded that renewing the exemption allows the Virginia SPE program to achieve the level of safety required by 49 U.S.C. 31315.

If a Virginia-licensed driver would prefer not to opt for the streamlined SPE process, the driver may still apply for an FMCSA-issued SPE. However, FMCSA may still exercise its discretion and call upon Virginia DMV to provide assistance in conducting the road evaluation needed to complete an SPE application, depending on the volume of applications.

III. Terms and Conditions

The FMCSA grants the renewal of the exemption to allow the Virginia DMV to conduct SPE's on drivers who have experienced an impairment or loss of a limb and are licensed in the Commonwealth of Virginia. The following terms and conditions apply to the State and any drivers who receive a State-issued SPE certificate:

- Virginia must establish and maintain its own SPE program that is essentially identical to the current FMCSA program.
- The State must maintain an application process modeled on the FMCSA process and submit information concerning the application process to FMCSA's Medical Programs Division for review, as required.
- State personnel who conduct the skill test must complete SPE training identical to that of FMCSA personnel currently administering the Federal SPE program.
- The skill evaluation and scoring for the SPE must be done using the same procedures and testing criteria used by FMCSA.
- Virginia must maintain records of applications, testing, and certificates issued for periodic review by FMCSA.
- Virginia must submit a monthly report to FMCSA listing the names and license number of each driver tested by the State and the result of the test (pass or fail).
- Each driver who receives a State-issued SPE must carry a copy of the certificate when driving for presentation to authorized Federal, State, or local law enforcement officials.

IV. Preemption of State Laws and Regulations

An exemption granted under the authority of 49 U.S.C. 31315(b) preempts State laws and regulations that conflict with or are inconsistent with the exemption. The decision to grant Virginia's request amounts to automatic Federal ratification of the State issued SPE certificate and therefore prohibits other jurisdictions from requiring a separate FMCSA-issued SPE. The State-issued certificate must be treated as if it had been issued by FMCSA. Virginia-licensed drivers who receive the State-issued SPE are allowed to operate CMVs in interstate commerce anywhere in the United States.

V. Request for Comments

Interested parties possessing information that would otherwise show that granting this exemption is not achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence summited, and if safety is being compromised or if continuation of exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoked the Virginia DMV exemption.

VI. Conclusion

The Agency does not intend its decision to pressure other States to take action to implement State-run SPE programs. Virginia is the first State to submit an application on behalf of its drivers to provide an alternative to the Federal SPE process. Other States are welcome to make similar applications if they believe it is appropriate to do so and they have the resources to meet terms and conditions comparable to those provided in this exemption.

Issued on: June 29, 2016.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2016–16197 Filed 7–7–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0180]

Agency Information Collection Activities; New Information Collection Request: 391.41 CMV Driver Medication Form

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), 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 its review and approval and invites public comment on the approval of a new Information Collection (IC) titled, *391.41 CMV Driver Medication Form.* Comments received in response to this notice are sent to the OMB Desk Officer to address. This IC is voluntary and may be utilized by medical examiners (MEs) responsible for issuing Medical Examiner's Certificates (MECs) to commercial motor vehicle (CMV) drivers. MEs that choose to use this IC will do so in an effort to communicate with treating healthcare professionals who are responsible for prescribing certain medications, so that the ME fully understands the reasons the medications have been prescribed. The information obtained by the ME when utilizing this IC will assist the ME in determining if the driver is medically certified according to the physical qualifications standards outlined in 49 CFR 391.41 and to ensure that there are no disqualifying medical conditions or underlying medical conditions and

prescribed medications that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public.

DATES: Please send your comments to this notice by August 8, 2016. OMB must receive your comments by this date to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2015–0180. Interested persons are invited to submit written comments on the proposed IC to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to *oira_submission@omb.eop.gov,* faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Title: 391.41 CMV Driver Medication Form.

OMB Control Number: 2126–00XX.

Type of Request: New collection.

Respondents: Prescribing healthcare professionals.

Estimated Number of Respondents: 1,082,200 (total number of prescribing healthcare providers in the U.S.).

Estimated Time per Response: 8 minutes.

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

Frequency of Response: Voluntary.

Estimated Total Annual Burden: 144,293 hours [1,082,200 responses × 8 minutes to complete response/60 minutes = 144,293].

Background: The primary mission of FMCSA is to reduce crashes, injuries, and fatalities involving large trucks and buses. The Secretary of Transportation has delegated to FMCSA its responsibility under 49 U.S.C. 31136 and 31502 to prescribe regulations that ensure that CMVs are operated safely. As part of this mission, the Agency's Medical Programs Division works to ensure that CMV drivers engaged in interstate commerce operations are physically qualified and able to safely perform their work.

Information used to determine and certify driver medical fitness must be collected in order for our highways to be safe. FMCSA is the Federal government agency authorized to require the collection of this information and the authorizing regulations are located at 49 CFR parts 390–399. FMCSA is required by statute to establish 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 discussing this collection are outlined in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR part 390–399. FMCSRs at 49 CFR 391.41 set forth the physical qualification standards that interstate CMV drivers who are subject to part 391 must meet, with the exception of commercial driver's license/commercial learner's permit (CDL/CLP) drivers transporting migrant workers (who must meet the physical qualification standards set forth in 49 CFR 398.3). The FMCSRs covering driver physical qualification records are found at 49 CFR 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination shall be recorded in accordance with the requirements set forth in that section.

49 CFR 391.41(b)(12) states that a person is physically qualified to drive a CMV if that person does not use any drug or substance identified in 21 CFR 1308.11 Schedule I, an amphetamine, a narcotic, or other habit-forming drug and does not use any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is prescribed by a licensed medical practitioner, as defined in § 382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a CMV.

In 2006, FMCSA's Medical Review Board (MRB) deliberated on the topic of the use of Schedule II medications. The MRB considered information provided in a 2006 FMCSA sponsored Evidence Report and a subsequent Medical Expert Panel (MEP) to examine the relationship between the licit use of Schedule II medications and the risk for a motor vehicle crash. In 2013, FMCSA tasked the MRB with updating the opinions and recommendations of the 2006 Evidence Report and MEP.

On September 10, 2013, the MRB and Motor Carrier Safety Advisory Committee (MCSAC) met jointly to hear presentations on the licit use of Schedule II medications and their regulation, and on U.S. Department of Transportation drug and alcohol testing protocols. Subsequently, the committees engaged in a discussion on the issue as it applies to CMV drivers. On September 11, 2013, the MRB discussed the issue in greater detail as its task to present a report to the Agency relating to CMV drivers and Schedule II medication use and to develop a form for MEs on the National Registry of Certified Medical Examiners (National Registry) to send to treating clinicians of CMV drivers to expound on the use of these medications by driver applicants. On October 22, 2013, the MRB submitted their recommendations to FMCSA. A MEP convened to provide an updated opinion on *Schedule II Opioids and Stimulants & CMV Crash Risk and Driver Performance.* The FMCSA revised the task of the MRB instructing them to review an updated evidence report and the MEP opinion that was furnished subsequent to its deliberations on *Schedule II Opioids and Stimulants & CMV Crash Risk and Driver Performance: Evidence Report and Systematic Review.* FMCSA directed the MRB to consider this report's findings and confer with the MCSAC on this topic during a joint meeting in October 2014. The MRB met in public meetings on July 29–30, 2014, and developed Schedule II medication recommendations. The MRB presented these recommendations to the MCSAC in a joint public meeting on October 27, 2014, where they were deliberated by both committees. As a result, FMCSA's MRB and MCSAC provided joint recommendations related to the use of Schedule II medications by CMV drivers. Because there is moderate evidence to support the contention that the licit use of opioids increases the risk of motor vehicle crashes and impacts indirect measures of driver performance negatively, included was the recommendation that FMCSA develop a standardized medication questionnaire to assist the certified ME when reviewing prescription medications that have been disclosed during the history and physical examination for CMV driver certification. The two advisory groups recommended to FMCSA that the standardized CMV driver medication questionnaire be voluntary and include the following information and questions:

1. Questionnaire should be titled *391.41 CMV Driver Medication Questionnaire.*

2. Questionnaire should request the following information:

a. Identifying name and date of birth of the CMV driver.

b. Introductory paragraph stating purpose of the CMV Driver Medication Report.

c. Statements of § 391.41(b)(12) (Physical Qualifications of Drivers relating to driver use of scheduled substances) and The Driver's Role, as found in the Medical Examination Report form found at the end of *49 CFR 391.43 (Medical Examination; Certificate of Physical Examination).*

d. Name, state of licensure, signature, address and contact information of the prescribing healthcare provider, as well as the date the form was completed.

e. Name, signature, date, address and contact information of the certified ME.

3. Report should include the following information:

a. 1—List all medications and dosages that you have prescribed to the above named individual.

b. 2—List any other medications and dosages that you are aware have been prescribed to the above named individual by another treating healthcare provider.

c. 3—What medical conditions are being treated with these medications?

d. 4—It is my medical opinion that, considering the mental and physical requirements of operating a CMV and with awareness of a CMV driver's role (consistent with *The Driver's Role* statement on page 2 of the form), I believe my patient: (a) Has no medication side effects from medication(s) that I prescribe that would adversely affect the ability to operate a CMV safely; and (2) has no medical condition(s) that I am treating with the above medication(s) that would adversely affect the ability to operate a CMV safely.

The public interest in, and right to have, safe highways requires the assurance that drivers of CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's medical standards provide this assurance by requiring drivers to be examined and medically certified as physically and mentally qualified to drive.

The purpose for collecting this information is to assist the ME in determining if the driver is medically qualified under 49 CFR 391.41 and to ensure that there are no disqualifying medical conditions that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public. 49 CFR 391.41(b)(12) states that a person is physically qualified to drive a CMV if that person does not use any drug or substance identified in 21 CFR 1308.11 Schedule I, an amphetamine, a narcotic, or other habit-forming drug and does not use any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is prescribed by a licensed medical practitioner, as defined in § 382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a CMV.

The use of this IC is at the discretion of the ME to facilitate communication with treating healthcare professionals who are responsible for prescribing certain medications so that the ME fully understands the reasons the medications have been prescribed. This information will assist the ME in determining whether the underlying medical condition and the prescribed medication will impact the driver's safe operation of a CMV. Therefore, there is no required collection frequency.

The *391.41 CMV Driver Medication Form* will be available as a fillable PDF or may be downloaded from the FMCSA Web site. Prescribing healthcare providers will be able to fax or scan and email the report to the certified ME. Consistent with the 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 *391.41 CMV Driver Medication Forms* will be transmitted electronically.

The information collected from the *391.41 CMV Driver Medication Form,* will be used by the certified ME that requested the completion of the form and will become part of the CMV driver's medical record maintained by the certified ME. Therefore, the information will not be available to the public. The FMCSRs covering driver physical qualification records are found at 49 CFR 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination shall be recorded in accordance with the requirements set forth in that section. MEs are required to maintain records of the CMV driver medical examinations they conduct. Disclaimer language is displayed at the end of the medical form to declare sensitive information on the form must be handled and maintained securely to prevent inadvertent disclosure. The language also states the form is for official use only, by authorized persons, and the form should be properly disposed of when no longer required.

Discussion of Comments Received

A. Overview of Comments

In response to the **Federal Register** notice published on November 25, 2015, requesting public comment concerning the necessity of the proposed IC, the accuracy of the estimated burden, how the quality of collected information could be enhanced, and ways in which the burden could be minimized without reducing the quality of the collected information (80 FR 73871), FMCSA received 14 comments. The commenters included certified MEs, CMV drivers, training organizations, the American Trucking Associations (ATA), the Owner-Operator Independent Drivers Association (OOIDA), and the American College of Occupational and Environmental Medicine (ACOEM).

The first area of comments involved the effectiveness of the *391.41 CMV Driver Medication Form.* The second area of comments discussed the burden hours and costs. The final area of comments were issues that were considered outside the scope of this ICR and the optional use of the *391.41 CMV Driver Medication Form.* These comments will be briefly summarized with an explanation as to why the issues raised are not within the scope of this notice.

Five commenters expressed support for the ICR and two commenters explicitly opposed the ICR. The remaining seven neither supported nor opposed the ICR, but raised concerns or provided suggestions for changes to the optional form.

The following sections provide details regarding specific issues raised by the commenters.

B. Effectiveness of the 391.41 CMV Driver Medication Form

ACOEM acknowledged that the current process used by MEs is clearly inadequate but also feels that the form falls far short of being able to adequately assess whether a driver will be impaired by medications or an underlying medical condition. They also stated that many healthcare providers do not fully understand the safety risks and responsibilities of the CMV driver and would rely on the patient's statement that the medication does not impair the driver's ability to safely operate a CMV. Therefore, they believe that the prescribing healthcare provider statements would not be reliable. ACOEM also believes that the form does not go far enough to address the use of opioids by drivers and the rapid increase in adverse effects of opioid use and suggests that FMCSA strive for a form that becomes the standard of

practice that requires the treating provider and the ME to be aware of medications and conditions, including opioid use.

Others commented that some physicians have no problem stating that their patient is safe to drive a CMV while taking these medications leaving the ME that disagrees and is not willing to issue the driver a MEC with a driver that is angry based on the differing opinions. OOIDA stated that the form would be a direct challenge to the treating physician according to § 391.41(b)(12)(ii) that states ''A person is physically qualified to drive a commercial motor vehicle if that person does not use any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is prescribed by a licensed medical practitioner, as defined in § 392.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial vehicle.'' They believe that this form challenges the opinion of the driver's treating physician and puts it in the hands of a stranger with no knowledge of the driver's background and who is unfamiliar with the driver's medical history.

FMCSA Response

FMCSA is providing the *391.43 CMV Driver Medication Form* at the request of MEs to be used at their discretion, and as a resource for assisting MEs in making medical certification determinations of interstate CMV drivers. Use of the form is voluntary and MEs may do so in an effort to communicate with treating healthcare providers who are responsible for prescribing certain medications, so that the ME fully understands the reasons the medications have been prescribed. Information about the driver's role was specifically added to the form to assist those healthcare providers that do not fully understand the safety risks and responsibilities of the CMV driver and in an effort to obtain reliable data. The form was specifically designed to address any medications that a driver is taking that may impair his/her ability to safety operate a CMV and was not intended to address only opioids.

The information obtained by the ME when utilizing the optional *391.41 CMV Driver Medication Form* will assist the ME in determining if the driver is medically qualified under 49 CFR 391.41 and to ensure that there are no disqualifying medical conditions or underlying medical conditions and prescribed medications that could adversely affect the driver's safe driving ability or cause incapacitation constituting a risk to the public. The decision to certify a driver is a discretionary decision that rests with the certifying ME. MEs may disqualify a driver who takes any medications or combination of medications and substances that may impair or interfere with safe driving practices.

C. Burden Hours and Costs

Several commenters expressed concern that prescribing healthcare providers would not respond in a timely manner or at all, and that delays would be costly to drivers and motor carriers. ATA stated that FMCSA should consider the impact of potential delays to driver recertification, because the form does not advise prescribing healthcare providers to complete and return the form to the requesting ME within a specific timeframe, nor does it require MEs to certify a driver who is medically qualified even in the absence of the completed form. They expressed concern that the lack of such language could result in unnecessary and costly delays that would penalize qualified drivers due to circumstances that are out of their control. ATA recommended that if a prescribing healthcare provider is unable to return the form to a ME in a timely manner, FMCSA should advise MEs to continue to use their own judgement and certify drivers in these circumstances if they find them to be medically qualified.

Others commented that MEs will find the proposed form to be too restrictive and excessive explaining that although a full list of medications seems to be a good idea, it could significantly increase the effort required by the prescribing healthcare providers which is counterproductive to obtaining their assistance. Suggestions were made to ask the prescribing healthcare provider a single question such as is the driver taking any other medications that may be a risk to safe driving, to list only those medications that would negatively affect the ability of the driver to safely operate a CMV, or to only ask about medications that are of concern that the patient reported. Dr. Michael Megehee recommended including a statement that FMCSA guidelines require the ME to ask the prescribing healthcare provider for assistance in determining whether the driver is safe to operate a CMV and they meet the FMCSRs and that although the ME considers the opinions of treating physicians, the ME is responsible for making the final medical qualification determination.

ATA stated that while this IC may be a useful tool to many MEs in determining whether a driver is medically qualified, in certain cases, it will not always be necessary. They believe that in most situations, the ME should be able to verify the accuracy of the information provided by the driver and the need for the medication based upon their training and experience in performing medical examinations and a robust conversation with the driver. They suggested that to avoid any unnecessary and costly delays to drivers and carriers alike, FMCSA should emphasize to MEs that the form is strictly voluntary and not a de facto standard when performing medical examinations. They also suggested that the form be consistent with the newly revised MER Form, MCSA–5875 by limiting its inquiry into medications that the driver is currently prescribed and that the prescribing healthcare provider should only report those medications that they can confirm have been prescribed. They stated that asking for all prescribed medications imposes a burden on healthcare providers without any significant positive impact on safety and suggested asking healthcare providers to list those medications that a driver is currently prescribed and would negatively affect their ability to safely operate a CMV will dramatically limit the collection burden without diminishing the quality of the information being collected.

OOIDA stated that there will be an increase in the number of inconsistencies in the medical certification process as MEs with no personal relationship with the driver attempt to evaluate a great deal of long-term medication usage. They stated that the proposed use of the *391.41 CMV Driver Medication Form* invites second guessing of a primary physician by MEs who are empowered by an unreliable medical form and that it invites the ME to question every medication and dosage which has been previously prescribed. They feel that this IC will only increase problems drivers have already experienced with MDs, which have resulted in higher costs and lengthier delays for drivers. Ultimately, they stated that the IC will lead to higher costs and longer wait times for drivers as they complete the examination with a ME and that it is already a common occurrence for the ME to conduct excessive testing beyond what is required under the current medical examination form. OOIDA points out that the IC is not limited to Schedule II drugs and could include items with no perceptible link to the safe operation of a CMV and believes that requesting an unlimited amount of

information is not helpful to determining a driver's fitness to operate a CMV and that there is no need to require a listing of any prescribed drugs beyond those regulated by § 382.213: Controlled substance use.

FMCSA Response

FMCSA does not believe that the form will add any time to the certification decision nor is it necessary to advise the ME to make a certification decision at any specified time after sending the *391.41 CMV Driver Medication Form* to the prescribing healthcare provider. In addition, the Medical Examiner's Certification Integration final rule provides a determination pending category that allows the driver to continue to operate a CMV as long as the driver has an unexpired MEC, for a maximum of 45 days, if the ME needs additional information to make a certification decision making additional delays unlikely.

As previously stated, the form was specifically designed to address any prescription medications that a driver is taking that may impair his/her ability to safely operate a CMV. Therefore, the Agency does not believe that the form is too restrictive or excessive nor will it significantly increase the effort required by the prescribing healthcare providers. Instead, the Agency believes that the form will be a useful resource for MEs in making a medical certification decision of drivers that are taking prescribed medications.

Because the prescribing healthcare provider is not trained regarding the FMCSRs and may not be a certified ME, FMCSA does not believe that asking the prescribing healthcare provider a single question such as is the driver taking any other medications that may be a risk to safe driving, to list only those medications that would negatively affect the ability of the driver to safely operate a CMV, or to only ask about medications that are of concern that the patient reported would provide reliable information to assist the ME in making a medical certification decision. FMCSA is not requiring MEs to use the *391.41 CMV Driver Medication Form,* use of the form is completely voluntary. Therefore, it would not be appropriate to add a statement that FMCSA is requiring MEs to ask the prescribing healthcare provider for assistance in determining whether the driver is safe to operate a CMV and that they meet the FMCSRs. The fact that the ME is responsible for making the final medical certification determination is stated on the form.

FMCSA continues to emphasize that the *391.41 CMV Driver Medication Form* is optional and may be used at the discretion of the ME as a resource for the ME to communicate with prescribing healthcare providers, enabling the ME to make a more informed medical certification determination. When used, this form will supplement the MER Form, MCSA–5875 by asking for all medications that the prescribing healthcare provider has prescribed and any other medications that they are aware have been prescribed by another treating healthcare provider, and was designed to address any prescription medications that a driver is taking that may impair his/her ability to safety operate a CMV. The Agency does not feel that asking for all medications prescribed on this optional form imposes a burden on healthcare providers without any significant positive impact on safety and that limiting the collection to only medications that a driver is currently prescribed that the prescribing healthcare provider feels would negatively affect their ability to safely operate a CMV would diminish the quality of the information being collected.

Interstate CMV drivers are required to use a certified ME listed on the National Registry for their medical examination and certification. Therefore, in many cases the driver is going to a ME that they do not have a personal relationship with. The use of the optional *391.41 CMV Driver Medication Form* does not change this fact nor does it have a negative impact. The *391.41 CMV Driver Medication Form* is a tool to collect information that the MEs already collect at their discretion when performing driver examinations. This optional form will serve as a resource for the ME to use in communicating with prescribing healthcare providers, enabling the ME to make a more informed medical certification determination. The decision to certify a driver is a discretionary decision that continues to rest with the certifying ME. As previously stated, MEs may disqualify a driver who takes any medications or combination of medications and substances that may impair or interfere with safe driving practices.

D. Issues Outside the Scope of This Notice

A number of respondents submitted comments on topics that were outside the scope of what was proposed in this notice. This notice specifically requested comments related to the proposed IC and optional form to be used as an IC tool.

1. Schedule II Medication Use

OOIDA disputed the fact that there is moderate evidence of increased risk due to Schedule II drug use and stated that the paucity of data shows that few CMV drivers have had problems with licit Schedule II drug use, or even prescription medications. They also stated that studies do not show that a significant number of CMV operators are crashing due to prescription medication use and that because insufficient data exists regarding the use of Schedule II drugs by CMV drivers should be an indication to the MRB and FMCSA that there are very few CMV drivers who have had problems with licit Schedule II drug usage.

Dr. Kurt T. Hegmann stated that this form should not be adopted for opioids/Schedule II medications, because this form is not evidence-based, not validated, there is no objective test to figure out who is unsafe and will crash if using opioids/Schedule II medications, and the form will cause a false sense of security that both endorses narcotics-using truck drivers and a method to sign the form to approve them to drive under the influence, and is likely to inadvertently further increase fatalities. He also stated that the form appears to evade the FDA-supported advice on opioid prescription labels that uniformly warn against vehicle operation and suggested we adopt the 2006 MEP recommendation to eliminate the potential exception that a prescriber who thought someone could drive, would be allowed to drive on opioids. Dr. Hegamann believes that this form will not help the Agency meet its primary mission. Instead he states that individuals using opioids should not drive trucks and instead should be tapered and/or de-toxed and then resume driving off those medications.

On the other hand, ACOEM, stated that the form does not go far enough to address the use of opioids by drivers and the rapid increase in adverse effects of opioid use. They pointed out that the original proposed version of this form goes back to the 2006 Schedule II Medication Panel and had significantly more content, which would have given the treating provider and the ME a clearer understanding of the impairment risks of the medications. They suggested any form incorporate some of the recommendations from the MRB and MCSAC joint Task 14–3: Schedule II Controlled Substances and CMV Drivers including the recommendation that a driver should not be medically qualified to operate a CMV while he/she is under treatment with narcotics or any narcotic derivative without exception. They go

on to explain that because the current exception remains in the FMCSRs (40 CFR 391.41(b)(12)(ii)), they recommend guidelines be provided to MEs regarding the use of narcotics.

FMCSA Response

Although optional use of the *391.41 CMV Driver Medication Form* was introduced as a result of the MRB and MCSAC recommendations related to the use of Schedule II medications by CMV drivers, the recommendation was for FMCSA to develop a standardized form to assist the certified ME when reviewing prescription medications that have been disclosed during the history and physical examination for CMV driver certification. Therefore, the form was not designed to specifically address Schedule II medications. The form was designed to address any prescription medications that a driver is taking that may impair his/her ability to safety operate a CMV. FMCSA is not considering a change in the regulations or guidance that would prohibit or advise the ME regarding Schedule II medications at this time. Therefore, these comments are outside of the scope of this notice.

2. Qualifications of the ME

Several commenters stated that a ME might not be qualified to make a medical qualification decision if the driver uses Schedule II medications, because of a lack of training in pharmacology.

OOIDA stated that the personal physician is best equipped to review a driver's medical history and suggested that a personal physician be the one to review the driver's medical history and make the decision whether a medication will adversely affect the driver's ability to safely operate a CMV.

Dr. Hegmann advocated for implementation of the MRB's recommendation that ME eligibility be limited to those medically trained (*i.e.,* MD, DO, PA and NPs). He stated that the concept that these medically untrained examiners can make an informed judgment about driver impairment from narcotics, assess how opioids may interact with other medications, provide guidance to truck drivers, and judge fitness to drive is factually false. Dr. Hegmann feels that FMCSA does not rely on recommendations of the MRB and will selectively use whichever source of guidance is least restrictive which is directly contrary to the central, stated purpose of the Agency.

FMCSA Response

FMCSA responded to the question of who is qualified to be a ME in the National Registry of Certified Medical Examiners final rule (77 FR 24106, April 20, 2012), and is not considering a change to the regulation in 49 CFR 390.103, Eligibility requirements for medical examiner certification in this notice. Therefore, these comments are outside the scope of this notice.

Public Comments Invited: FMCSA requests that you comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions, (2) the accuracy of the estimated burden, (3) ways for the 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. Comments received in response to this notice are sent to the OMB Desk Officer to address.

Issued under the authority delegated in 49 CFR 1.87 on: June 30, 2016.

G. Kelly Regal,

Associate Administrator, Office of Research and Information Technology.

[FR Doc. 2016–16199 Filed 7–7–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0345]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 19 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted January 21, 2016. The exemptions expire on January 21, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking 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 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On December 21, 2015, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (80 FR 79414). That notice listed 19 applicants' case histories. The 19 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 19 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides: