

INSURE CORRECTION, PARTICULARLY OF THOSE CONDITIONS WHICH, IF NEGLECTED, MIGHT AFFECT THE DRIVER'S ABILITY TO DRIVE SAFELY.

GENERAL APPEARANCE AND DEVELOPMENT. NOTE MARKED OVERWEIGHT. NOTE ANY POSTURAL DEFECT, PERCEPTIBLE LIMP, TREMOR, OR OTHER CONDITIONS THAT MIGHT BE CAUSED BY ALCOHOLISM, THYROID INTOXICATION OR OTHER ILLNESSES.

HEAD-EYES. WHEN OTHER THAN THE SNELLEN CHART IS USED, THE RESULTS OF SUCH TEST MUST BE EXPRESSED IN VALUES COMPARABLE TO THE STANDARD SNELLEN TEST. IF THE DRIVER WEARS CORRECTIVE LENSES FOR DRIVING, THESE SHOULD BE WORN WHILE DRIVER'S VISUAL ACUITY IS BEING TESTED. IF CONTACT LENSES ARE WORN, THERE SHOULD BE SUFFICIENT EVIDENCE OF GOOD TOLERANCE OF AND ADAPTATION TO THEIR USE. INDICATE THE DRIVER'S NEED TO WEAR CORRECTIVE LENSES TO MEET THE VISION STANDARD ON THE MEDICAL EXAMINER'S CERTIFICATE BY CHECKING THE BOX, "QUALIFIED ONLY WHEN WEARING CORRECTIVE LENSES." IN RECORDING DISTANCE VISION USE 20 FEET AS NORMAL. REPORT ALL VISION AS A FRACTION WITH 20 AS THE NUMERATOR AND THE SMALLEST TYPE READ AT 20 FEET AS THE DENOMINATOR. MONOCULAR DRIVERS ARE NOT QUALIFIED TO OPERATE COMMERCIAL MOTOR VEHICLES IN INTERSTATE COMMERCE.

EARS. NOTE EVIDENCE OF ANY EAR DISEASE, SYMPTOMS OF AURAL VERTIGO, OR MENIERE'S SYNDROME. WHEN RECORDING HEARING, RECORD DISTANCE FROM PATIENT AT WHICH A FORCED WHISPERED VOICE CAN FIRST BE HEARD. FOR THE WHISPERED VOICE TEST, THE INDIVIDUAL SHOULD BE STATIONED AT LEAST 5 FEET FROM THE EXAMINER WITH THE EAR BEING TESTED TURNED TOWARD THE EXAMINER. THE OTHER EAR IS COVERED. USING THE BREATH WHICH REMAINS AFTER A NORMAL EXPIRATION, THE EXAMINER WHISPERS WORDS OR RANDOM NUMBERS SUCH AS 66, 18, 23, ETC. THE EXAMINER SHOULD NOT USE ONLY SIBILANTS (S-SOUNDING TEST MATERIALS). THE OPPOSITE EAR SHOULD BE TESTED IN THE SAME MANNER. IF THE INDIVIDUAL FAILS THE WHISPERED VOICE TEST, THE AUDIOMETRIC TEST SHOULD BE ADMINISTERED. FOR THE AUDIOMETRIC TEST, RECORD DECIBEL LOSS AT 500 HZ, 1,000 HZ, AND 2,000 HZ. AVERAGE THE DECIBEL LOSS AT 500 HZ, 1,000 HZ AND 2,000 HZ AND RECORD AS DESCRIBED ON THE FORM. IF THE INDIVIDUAL FAILS THE AUDIOMETRIC TEST AND THE WHISPERED VOICE TEST HAS NOT BEEN ADMINISTERED, THE WHISPERED VOICE TEST SHOULD BE PERFORMED TO DETERMINE IF THE STANDARD APPLICABLE TO THAT TEST CAN BE MET.

THROAT. NOTE ANY IRREMEDEABLE DEFORMITIES LIKELY TO INTERFERE WITH BREATHING OR SWALLOWING.

HEART. NOTE MURMURS AND ARRHYTHMIAS, AND ANY HISTORY OF AN ENLARGED HEART, CONGESTIVE HEART FAILURE, OR CARDIOVASCULAR DISEASE THAT IS ACCOMPANIED BY SYNCOPE, DYSPNEA, OR COLLAPSE. INDICATE ONSET DATE, DIAGNOSIS, MEDICATION, AND ANY CURRENT LIMITATION. AN ELECTROCARDIOGRAM IS REQUIRED WHEN FINDINGS SO INDICATE.

BLOOD PRESSURE (BP). IF A DRIVER HAS HYPERTENSION AND/OR IS BEING MEDICATED FOR HYPERTENSION, HE OR SHE SHOULD BE RECERTIFIED MORE FREQUENTLY. AN INDIVIDUAL DIAGNOSED WITH STAGE 1 HYPERTENSION (BP IS 140/90-159/99) MAY BE CERTIFIED FOR ONE YEAR. AT RECERTIFICATION, AN INDIVIDUAL WITH A BP EQUAL TO OR LESS THAN 140/90 MAY BE CERTIFIED FOR ONE YEAR; HOWEVER, IF HIS OR HER BP IS GREATER THAN 140/90 BUT LESS THAN 160/100, A ONE-TIME CERTIFICATE FOR 3 MONTHS CAN BE ISSUED. AN INDIVIDUAL DIAGNOSED WITH STAGE 2 (BP IS 160/100-179/109) SHOULD BE TREATED AND A ONE-TIME CERTIFICATE FOR 3-MONTH CERTIFICATION CAN BE ISSUED. ONCE THE DRIVER HAS REDUCED HIS OR HER BP TO EQUAL TO OR LESS THAN 140/90, HE OR SHE MAY BE RECERTIFIED ANNUALLY THEREAFTER. AN INDIVIDUAL DIAGNOSED WITH STAGE 3 HYPERTENSION (BP EQUAL TO OR GREATER THAN 180/110) SHOULD NOT BE CERTIFIED UNTIL HIS OR HER BP IS REDUCED TO 140/90 OR LESS, AND MAY BE RECERTIFIED EVERY 6 MONTHS.

LUNGS. NOTE ABNORMAL CHEST WALL EXPANSION, RESPIRATORY RATE, BREATH SOUNDS INCLUDING WHEEZES OR ALVEOLAR RALES, IMPAIRED RESPIRATORY FUNCTION, DYSPNEA, OR CYANOSIS. ABNORMAL FINDS ON PHYSICAL EXAM MAY REQUIRE FURTHER TESTING SUCH AS PULMONARY TESTS AND/OR X-RAY OF CHEST.

ABDOMEN AND VISCERA. NOTE ENLARGED LIVER, ENLARGED SPLEEN, ABNORMAL MASSES, BRUITS, HERNIA, AND SIGNIFICANT ABDOMINAL WALL MUSCLE WEAKNESS AND TENDERNESS. IF THE DIAGNOSIS SUGGESTS THAT THE CONDITION MIGHT INTERFERE WITH THE CONTROL AND SAFE OPERATION OF A COMMERCIAL MOTOR VEHICLE, FURTHER TESTING AND EVALUATION IS REQUIRED.

GENITAL-URINARY AND RECTAL EXAMINATION. A URINALYSIS IS REQUIRED. PROTEIN, BLOOD OR SUGAR IN THE URINE MAY BE AN INDICATION FOR FURTHER TESTING TO RULE OUT ANY UNDERLYING MEDICAL PROBLEMS. NOTE HERNIAS. A CONDITION CAUSING DISCOMFORT SHOULD BE EVALUATED TO DETERMINE THE EXTENT TO WHICH THE CONDITION MIGHT INTERFERE WITH THE CONTROL AND SAFE OPERATION OF A COMMERCIAL MOTOR VEHICLE.

NEUROLOGICAL. NOTE IMPAIRED EQUILIBRIUM, COORDINATION, OR SPEECH PATTERN; PARESTHESIA; ASYMMETRIC DEEP TENDON REFLEXES; SENSORY OR POSITIONAL ABNORMALITIES; ABNORMAL PATELLAR AND BABINSKI'S REFLEXES; ATAXIA. ABNORMAL NEUROLOGICAL RESPONSES MAY BE AN INDICATION FOR FURTHER TESTING TO RULE OUT AN UNDERLYING MEDICAL CONDITION. ANY NEUROLOGICAL CONDITION SHOULD BE EVALUATED FOR THE NATURE AND SEVERITY OF THE CONDITION, THE DEGREE OF LIMITATION PRESENT, THE LIKELIHOOD OF PROGRESSIVE LIMITATION, AND THE POTENTIAL FOR SUDDEN INCAPACITATION. IN INSTANCES WHERE THE MEDICAL EXAMINER HAS DETERMINED THAT MORE FREQUENT MONITORING OF A CONDITION IS APPROPRIATE, A CERTIFICATE FOR A SHORTER PERIOD SHOULD BE ISSUED.

SPINE, MUSCULOSKELETAL. PREVIOUS SURGERY, DEFORMITIES, LIMITATION OF MOTION, AND TENDERNESS SHOULD BE NOTED. FINDINGS MAY INDICATE ADDITIONAL TESTING AND EVALUATION SHOULD BE CONDUCTED.

EXTREMITIES. CAREFULLY EXAMINE UPPER AND LOWER EXTREMITIES AND NOTE ANY LOSS OR IMPAIRMENT OF LEG, FOOT, TOE, ARM, HAND, OR FINGER. NOTE ANY DEFORMITIES, ATROPHY, PARALYSIS, PARTIAL PARALYSIS, CLUBBING, EDEMA, OR HYPOTONIA. IF A HAND OR FINGER DEFORMITY EXISTS, DETERMINE WHETHER PREHENSION AND POWER GRASP ARE SUFFICIENT TO ENABLE THE DRIVER TO MAINTAIN STEERING WHEEL GRIP AND TO CONTROL OTHER VEHICLE EQUIPMENT DURING ROUTINE AND EMERGENCY DRIVING OPERATIONS. IF A FOOT OR LEG DEFORMITY EXISTS, DETERMINE WHETHER SUFFICIENT MOBILITY AND STRENGTH EXIST TO ENABLE THE DRIVER TO OPERATE PEDALS PROPERLY. IN THE CASE OF ANY LOSS OR IMPAIRMENT TO AN EXTREMITY WHICH MAY INTERFERE WITH THE DRIVER'S ABILITY TO OPERATE A COMMERCIAL MOTOR VEHICLE SAFELY, THE MEDICAL EXAMINER SHOULD STATE ON THE MEDICAL CERTIFICATE "MEDICALLY UNQUALIFIED UNLESS ACCOMPANIED BY A SKILL PERFORMANCE EVALUATION

CERTIFICATE." THE DRIVER MUST THEN APPLY TO THE FIELD SERVICE CENTER OF THE FMCSA, FOR THE STATE IN WHICH THE DRIVER HAS LEGAL RESIDENCE, FOR A SKILL PERFORMANCE EVALUATION CERTIFICATE UNDER § 391.49.

LABORATORY AND OTHER TESTING. OTHER TEST(S) MAY BE INDICATED BASED UPON THE MEDICAL HISTORY OR FINDINGS OF THE PHYSICAL EXAMINATION.

DIABETES. IF INSULIN IS NECESSARY TO CONTROL A DIABETIC DRIVER'S CONDITION, THE DRIVER IS NOT QUALIFIED TO OPERATE A COMMERCIAL MOTOR VEHICLE IN INTERSTATE COMMERCE. IF MILD DIABETES IS PRESENT AND IT IS CONTROLLED BY USE OF AN ORAL HYPOGLYCEMIC DRUG AND/OR DIET AND EXERCISE, IT SHOULD NOT BE CONSIDERED DISQUALIFYING. HOWEVER, THE DRIVER MUST REMAIN UNDER ADEQUATE MEDICAL SUPERVISION.

UPON COMPLETION OF THE EXAMINATION, THE MEDICAL EXAMINER MUST DATE AND SIGN THE FORM, PROVIDE HIS/HER FULL NAME, OFFICE ADDRESS AND TELEPHONE NUMBER. THE COMPLETED MEDICAL EXAMINATION FORM SHALL BE RETAINED ON FILE AT THE OFFICE OF THE MEDICAL EXAMINER.

[Please see PDF for image: ER30SE03.002]

[Please see PDF for image: ER30SE03.003]

[Please see PDF for image: ER30SE03.004]

[Please see PDF for image: ER30SE03.005]

[Please see PDF for image: ER30SE03.006]

[Please see PDF for image: ER30SE03.007]

[Please see PDF for image: ER30SE03.008]

[Please see PDF for image: ER30SE03.009]

(g)(1) If the medical examiner finds that the person examined is physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b), the medical examiner should complete a certificate in the form prescribed in paragraph (h) of this section and furnish the original to the person who was examined. The examiner may provide a copy to a prospective or current employing motor carrier who requests it.

(2) For all drivers examined, the medical examiner should retain a copy of the Medical Examination Report at least 3 years from the date of the examination. If the driver was certified as physically qualified, then the medical examiner should also retain the medical certificate as well for at least 3-years from the date the certificate was issued.

(h) The medical examiner's certificate shall be substantially in accordance with the following form. Existing forms may be used until current printed supplies are depleted or until November 6, 2001, whichever occurs first.

[Please see PDF for image: ER05oc00.021]

[35 FR 6460, Apr. 22, 1970]

Editorial Note: For **Federal Register** citations affecting § 391.43, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 391.45 Persons who must be medically examined and certified.

Except as provided in § 391.67, the following persons must be medically examined and certified in accordance with § 391.43 as physically qualified to operate a commercial motor vehicle:

(a) Any person who has not been medically examined and certified as physically qualified to operate a commercial motor vehicle;

(b)(1) Any driver who has not been medically examined and certified as qualified to operate a commercial motor vehicle during the preceding 24 months; or

(2) Any driver authorized to operate a commercial motor vehicle only with an exempt intracity zone pursuant to § 391.62, or only by operation of the exemption in § 391.64, if such driver has not been medically examined and certified as qualified to drive in such zone during the preceding 12 months; and

(c) Any driver whose ability to perform his/her normal duties has been impaired by a physical or mental injury or disease.

[35 FR 6460, Apr. 22, 1970, as amended at 36 FR 223, Jan. 7, 1971; 54 FR 12202, Mar. 24, 1989; 61 FR 13347, Mar. 26, 1996]

§ 391.47 Resolution of conflicts of medical evaluation.

(a) *Applications.* Applications for determination of a driver's medical qualifications under standards in this part will only be accepted if they conform to the requirements of this section.

(b) *Content.* Applications will be accepted for consideration only if the following conditions are met.

(1) The application must contain the name and address of the driver, motor carrier, and all physicians involved in the proceeding.

(2) The applicant must submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

(3) The applicant must submit a copy of an opinion and report including results of all tests of an impartial medical specialist in the field in which the medical conflict arose. The specialist should be one agreed to by the motor carrier and the driver.

(i) In cases where the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant must submit a statement of his/her agreement to submit the matter to an impartial medical specialist in the field, proof that he/she has requested the driver to submit to the medical specialist, and the response, if any, of the driver to his/her request.

(ii) In cases where the motor carrier refuses to agree on a medical specialist, the driver must submit an opinion and test results of an impartial medical specialist, proof that he/she has requested the motor carrier to agree to submit the matter to the medical specialist and the response, if any, of the motor carrier to his/her request.

(4) The applicant must include a statement explaining in detail why the decision of the medical specialist identified in paragraph (b)(3) of this section, is unacceptable.

(5) The applicant must submit proof that the medical specialist mentioned in paragraph (b)(3) of this section was provided, prior to his/her determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

(6) The applicant must submit the medical history and statement of work provided to the medical specialist under paragraph (b)(5) of this section.

(7) The applicant must submit all medical records and statements of the physicians who have given opinions on the driver's qualifications.

(8) The applicant must submit a description and a copy of all written and documentary evidence upon which the party making application relies in the form set out in 49 CFR 386.37.

(9) The application must be accompanied by a statement of the driver that he/she intends to drive in interstate commerce not subject to the commercial zone exemption or a statement of the carrier that he/she has used or intends to use the driver for such work.

(10) The applicant must submit three copies of the application and all records.

(c) *Information.* The Director, Office of Bus and Truck Standards and Operations (MC-PSDPSD) may request further information from the applicant if he/she determines that a decision cannot be made on the evidence submitted. If the applicant fails to submit the information requested, the Director may refuse to issue a determination.

(d)(1) *Action.* Upon receiving a satisfactory application the Director, Office of Bus and Truck Standards and Operations (MC-PSDPSD) shall notify the parties (the driver, motor carrier, or any other interested party) that the application has been accepted and that a determination will be made. A copy of all evidence received shall be attached to the notice.

(2) *Reply.* Any party may submit a reply to the notification within 15 days after service. Such reply must be accompanied by all evidence the party wants the Director, Office of Bus and Truck Standards and Operations (MC-PSDPSD) to consider in making his/her determination. Evidence submitted should include all medical records and test results upon which the party relies.

(3) *Parties.* A party for the purposes of this section includes the motor carrier and the driver, or anyone else submitting an application.

(e) *Petitions to review, burden of proof.* The driver or motor carrier may petition to review the Director's determination. Such petition must be submitted in accordance with § 386.13(a) of this chapter. The burden of proof in such a proceeding is on the petitioner.

(f) *Status of driver.* Once an application is submitted to the Director, Office of Bus and Truck Standards and Operations (MC-PSDPSD), the driver shall be deemed disqualified until such time as the Director, Office of Bus and Truck Standards and Operations (MC-PSDPSD) makes a determination, or until the Director, Office of Bus and Truck Standards and Operations (MC-PSDPSD) orders otherwise.

(49 U.S.C. 304, 322; 18 U.S.C. 831-835; Pub. L. 93-633, 88 Stat. 8156 (49 U.S.C. 1801, *et seq.*); 49 CFR 1.48, 301.60)

[42 FR 18081, Apr. 5, 1977, as amended at 42 FR 53966, Oct. 4, 1977; 60 FR 38746, July 28, 1995]

§ 391.49 Alternative physical qualification standards for the loss or impairment of limbs.

(a) A person who is not physically qualified to drive under § 391.41(b)(1) or (b)(2) and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle, if the Division Administrator, FMCSA, has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(b) *SPE certificate*—(1) *Application.* A letter of application for an SPE certificate may be submitted jointly by the person (driver applicant) who seeks an SPE certificate and by the motor carrier that will employ the driver applicant, if the application is accepted.

(2) *Application address.* The application must be addressed to the applicable field service center, FMCSA, for the State in which the co-applicant motor carrier's principal place of business is located. The address of each, and the States serviced, are listed in § 390.27 of this chapter.

(3) *Exception.* A letter of application for an SPE certificate may be submitted unilaterally by a driver applicant. The application must be addressed to the field service center, FMCSA, for the State in which the driver has legal residence. The driver applicant must comply with all the requirements of paragraph (c) of this section except those in (c)(1)(i) and (iii). The driver applicant shall respond to the requirements of paragraphs (c)(2)(i) to (v) of this section, if the information is known.

(c) A letter of application for an SPE certificate shall contain:

(1) Identification of the applicant(s):

(i) Name and complete address of the motor carrier coapplicant;

(ii) Name and complete address of the driver applicant;

(iii) The U.S. DOT Motor Carrier Identification Number, if known; and

(iv) A description of the driver applicant's limb impairment for which SPE certificate is requested.

(2) Description of the type of operation the driver will be employed to perform:

(i) State(s) in which the driver will operate for the motor carrier coapplicant (if more than 10 States, designate general geographic area only);

(ii) Average period of time the driver will be driving and/or on duty, per day;

(iii) Type of commodities or cargo to be transported;

(iv) Type of driver operation (*i.e.*, sleeper team, relay, owner operator, etc.); and

(v) Number of years experience operating the type of commercial motor vehicle(s) requested in the letter of application and total years of experience operating all types of commercial motor vehicles.

(3) Description of the commercial motor vehicle(s) the driver applicant intends to drive:

(i) Truck, truck tractor, or bus make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—if manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2 speed, or 3 speed).

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

- (v) Description of type of trailer(s) (*i.e.*, van, flatbed, cargo tank, drop frame, lowboy, or pole);
 - (vi) Number of semitrailers or full trailers to be towed at one time;
 - (vii) For commercial motor vehicles designed to transport passengers, indicate the seating capacity of commercial motor vehicle; and
 - (viii) Description of any modification(s) made to the commercial motor vehicle for the driver applicant; attach photograph(s) where applicable.
- (4) Otherwise qualified:
- (i) The coapplicant motor carrier must certify that the driver applicant is otherwise qualified under the regulations of this part;
 - (ii) In the case of a unilateral application, the driver applicant must certify that he/she is otherwise qualified under the regulations of this part.
- (5) Signature of applicant(s):
- (i) Driver applicant's signature and date signed;
 - (ii) Motor carrier official's signature (if application has a coapplicant), title, and date signed. Depending upon the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signer of the application shall be an officer, partner, or the proprietor.
- (d) The letter of application for an SPE certificate shall be accompanied by:
- (1) A copy of the results of the medical examination performed pursuant to § 391.43;
 - (2) A copy of the medical certificate completed pursuant to § 391.43(h);
 - (3) A medical evaluation summary completed by either a board qualified or board certified physiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job-related tasks the driver applicant will be required to perform;
- (i) The medical evaluation summary for a driver applicant disqualified under § 391.41(b)(1) shall include:
 - (A) An assessment of the functional capabilities of the driver as they relate to the ability of the driver to perform normal tasks associated with operating a commercial motor vehicle; and
 - (B) A statement by the examiner that the applicant is capable of demonstrating precision prehension (*e.g.*, manipulating knobs and switches) and power grasp prehension (*e.g.*, holding and maneuvering the steering wheel) with each upper limb separately. This requirement does not apply to an individual who was granted a waiver, absent a prosthetic device, prior to the publication of this amendment.
 - (ii) The medical evaluation summary for a driver applicant disqualified under § 391.41(b)(2) shall include:
 - (A) An explanation as to how and why the impairment interferes with the ability of the applicant to perform normal tasks associated with operating a commercial motor vehicle;
 - (B) An assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant; and
 - (C) A statement by the examiner that the applicant is capable of demonstrating precision prehension (*e.g.*, manipulating knobs and switches) and power grasp prehension (*e.g.*, holding and maneuvering the steering wheel) with each upper limb separately. This requirement does not apply to an individual who was granted an SPE certificate, absent an orthotic device, prior to the publication of this amendment.
- (4) A description of the driver applicant's prosthetic or orthotic device worn, if any;
- (5) Road test:
- (i) A copy of the driver applicant's road test administered by the motor carrier coapplicant and the certificate issued pursuant to § 391.31(b) through (g); or
 - (ii) A unilateral applicant shall be responsible for having a road test administered by a motor carrier or a person who is competent to administer the test and evaluate its results.
- (6) Application for employment:
- (i) A copy of the driver applicant's application for employment completed pursuant to § 391.21; or

(ii) A unilateral applicant shall be responsible for submitting a copy of the last commercial driving position's employment application he/she held. If not previously employed as a commercial driver, so state.

(7) A copy of the driver applicant's SPE certificate of certain physical defects issued by the individual State(s), where applicable; and

(8) A copy of the driver applicant's State Motor Vehicle Driving Record for the past 3 years from each State in which a motor vehicle driver's license or permit has been obtained.

(e) *Agreement.* A motor carrier that employs a driver with an SPE certificate agrees to:

(1) File promptly (within 30 days of the involved incident) with the Medical Program Specialist, FMCSA service center, such documents and information as may be required about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant. This applies whether the driver's SPE certificate is a unilateral one or has a coapplicant motor carrier;

(i) A motor carrier who is a coapplicant must file the required documents with the Medical Program Specialist, FMCSA for the State in which the carrier's principal place of business is located; or

(ii) A motor carrier who employs a driver who has been issued a unilateral SPE certificate must file the required documents with the Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence.

(2) Evaluate the driver with a road test using the trailer the motor carrier intends the driver to transport or, in lieu of, accept a certificate of a trailer road test from another motor carrier if the trailer type(s) is similar, or accept the trailer road test done during the Skill Performance Evaluation if it is a similar trailer type(s) to that of the prospective motor carrier. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated in the Skill Performance Evaluation;

(3) Evaluate the driver for those nondriving safety related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety related or job related tasks unique to the operations of the employing motor carrier; and

(4) Use the driver to operate the type of commercial motor vehicle defined in the SPE certificate only when the driver is in compliance with the conditions and limitations of the SPE certificate.

(f) The driver shall supply each employing motor carrier with a copy of the SPE certificate.

(g) The State Director, FMCSA, may require the driver applicant to demonstrate his or her ability to safely operate the commercial motor vehicle(s) the driver intends to drive to an agent of the State Director, FMCSA. The SPE certificate form will identify the power unit (bus, truck, truck tractor) for which the SPE certificate has been granted. The SPE certificate forms will also identify the trailer type used in the Skill Performance Evaluation; however, the SPE certificate is not limited to that specific trailer type. A driver may use the SPE certificate with other trailer types if a successful trailer road test is completed in accordance with paragraph (e)(2) of this section. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated during the Skill Performance Evaluation.

(h) The State Director, FMCSA, may deny the application for SPE certificate or may grant it totally or in part and issue the SPE certificate subject to such terms, conditions, and limitations as deemed consistent with the public interest. The SPE certificate is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date.

(i) The SPE certificate renewal application shall be submitted to the Medical Program Specialist, FMCSA service center, for the State in which the driver has legal residence, if the SPE certificate was issued unilaterally. If the SPE certificate has a coapplicant, then the renewal application is submitted to the Medical Program Specialist, FMCSA field service center, for the State in which the coapplicant motor carrier's principal place of business is located. The SPE certificate renewal application shall contain the following:

(1) Name and complete address of motor carrier currently employing the applicant;

(2) Name and complete address of the driver;

(3) Effective date of the current SPE certificate;

(4) Expiration date of the current SPE certificate;

(5) Total miles driven under the current SPE certificate;

(6) Number of accidents incurred while driving under the current SPE certificate, including date of the accident(s), number of fatalities, number of injuries, and the estimated dollar amount of property damage;

(7) A current medical examination report;

(8) A medical evaluation summary pursuant to paragraph (d)(3) of this section, if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable. Refer to paragraph (d)(3)(ii) of this section for the condition under § 391.41(b)(2) which may be considered medically stable.

(9) A copy of driver's current State motor vehicle driving record for the period of time the current SPE certificate has been in effect;

(10) Notification of any change in the type of tractor the driver will operate;

(11) Driver's signature and date signed; and

(12) Motor carrier coapplicant's signature and date signed.

(j)(1) Upon granting an SPE certificate, the State Director, FMCSA, will notify the driver applicant and co-applicant motor carrier (if applicable) by letter. The terms, conditions, and limitations of the SPE certificate will be set forth. A motor carrier shall maintain a copy of the SPE certificate in its driver qualification file. A copy of the SPE certificate shall be retained in the motor carrier's file for a period of 3 years after the driver's employment is terminated. The driver applicant shall have the SPE certificate (or a legible copy) in his/her possession whenever on duty.

(2) Upon successful completion of the skill performance evaluation, the State Director, FMCSA, for the State where the driver applicant has legal residence, must notify the driver by letter and enclose an SPE certificate substantially in the following form:

SKILL PERFORMANCE EVALUATION CERTIFICATE

NAME OF ISSUING AGENCY:

AGENCY ADDRESS:

TELEPHONE NUMBER: ()

ISSUED UNDER 49 CFR 391.49, SUBCHAPTER B OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS

DRIVER'S NAME:

EFFECTIVE DATE:

SSN:

DOB:

EXPIRATION DATE:

ADDRESS:

DRIVER DISABILITY:

CHECK ONE: _NEW_RENEWAL

DRIVER'S LICENSE: _____

(STATE)(NUMBER)

IN ACCORDANCE WITH 49 CFR 391.49, SUBCHAPTER B OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS (FMCSRS), THE DRIVER APPLICATION FOR A SKILL PERFORMANCE EVALUATION (SPE) CERTIFICATE IS HEREBY GRANTED AUTHORIZING THE ABOVE-NAMED DRIVER TO OPERATE IN INTERSTATE OR FOREIGN COMMERCE UNDER THE PROVISIONS SET FORTH BELOW. THIS CERTIFICATE IS GRANTED FOR THE PERIOD SHOWN ABOVE, NOT TO EXCEED 2 YEARS, SUBJECT TO PERIODIC REVIEW AS MAY BE FOUND NECESSARY. THIS CERTIFICATE MAY BE RENEWED UPON SUBMISSION OF A RENEWAL APPLICATION. CONTINUATION OF THIS CERTIFICATE IS DEPENDENT UPON STRICT ADHERENCE BY THE ABOVE-NAMED DRIVER TO THE PROVISIONS SET FORTH BELOW AND COMPLIANCE WITH THE FMCSRS. ANY FAILURE TO COMPLY WITH PROVISIONS HEREIN MAY BE CAUSE FOR CANCELLATION.

CONDITIONS: AS A CONDITION OF THIS CERTIFICATE, REPORTS OF ALL ACCIDENTS, ARRESTS, SUSPENSIONS, REVOCATIONS, WITHDRAWALS OF DRIVER LICENSES OR PERMITS, AND CONVICTIONS INVOLVING THE ABOVE-NAMED DRIVER SHALL BE REPORTED IN WRITING TO THE ISSUING AGENCY BY THE EMPLOYING MOTOR CARRIER WITHIN 30 DAYS AFTER OCCURRENCE.

LIMITATIONS:

1. VEHICLE TYPE (POWER UNIT):*

2. VEHICLE MODIFICATION(S):

3. PROSTHETIC OR ORTHOTIC DEVICE(S) (REQUIRED TO BE WORN WHILE DRIVING):

4. ADDITIONAL PROVISION(S):

NOTICE: TO ALL MOTOR CARRIERS EMPLOYING A DRIVER WITH AN SPE CERTIFICATE. THIS CERTIFICATE IS GRANTED FOR THE OPERATION OF THE *POWER UNIT ONLY*. IT IS THE RESPONSIBILITY OF THE EMPLOYING MOTOR CARRIER TO EVALUATE THE DRIVER WITH A ROAD TEST USING THE TRAILER TYPE(S) THE MOTOR CARRIER INTENDS THE DRIVER TO

TRANSPORT, OR IN LIEU OF, ACCEPT THE TRAILER ROAD TEST DONE DURING THE SPE IF IT IS A SIMILAR TRAILER TYPE(S) TO THAT OF THE PROSPECTIVE MOTOR CARRIER. ALSO, IT IS THE RESPONSIBILITY OF THE EMPLOYING MOTOR CARRIER TO EVALUATE THE DRIVER FOR THOSE NON-DRIVING SAFETY-RELATED JOB TASKS ASSOCIATED WITH THE TYPE OF TRAILER(S) UTILIZED, AS WELL AS, ANY OTHER NON-DRIVING SAFETY-RELATED OR JOB-RELATED TASKS UNIQUE TO THE OPERATIONS OF THE EMPLOYING MOTOR CARRIER.

THE SPE OF THE ABOVE NAMED DRIVER WAS GIVEN BY A SKILL PERFORMANCE EVALUATION PROGRAM SPECIALIST. IT WAS SUCCESSFULLY COMPLETED UTILIZING THE ABOVE NAMED POWER UNIT AND _____ (TRAILER, IF APPLICABLE)

THE TRACTOR OR TRUCK HAD A _____ TRANSMISSION.

PLEASE READ THE *NOTICE* PARAGRAPH ABOVE.

NAME:

SIGNATURE:

TITLE:

DATE:

(k) The State Director, FMCSA, may revoke an SPE certificate after the person to whom it was issued is given notice of the proposed revocation and has been allowed a reasonable opportunity to appeal.

(l) Falsifying information in the letter of application, the renewal application, or falsifying information required by this section by either the applicant or motor carrier is prohibited.

[65 FR 25287, May 1, 2000, as amended at 65 FR 59380, Oct. 5, 2000; 67 FR 61824, Oct. 2, 2002]

Subpart F—Files and Records

§ 391.51 General requirements for driver qualification files.

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file.

(b) The qualification file for a driver must include:

(1) The driver's application for employment completed in accordance with § 391.21;

(2) A copy of the motor vehicle record received from each State record pursuant to § 391.23(a)(1);

(3) The certificate of driver's road test issued to the driver pursuant to § 391.31(e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to § 391.33;

(4) The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by § 391.25(a);

(5) A note relating to the annual review of the driver's driving record as required by § 391.25(c)(2);

(6) A list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27;

(7)(i) The medical examiner's certificate as required by § 391.43(g) or a legible copy of the certificate.

(ii) *Exception.* For CDL holders, beginning January 30, 2012, if the CDLIS motor vehicle record contains medical certification status information, the motor carrier employer must meet this requirement by obtaining the CDLIS motor vehicle record defined at § 384.105 of this chapter. That record must be obtained from the current licensing State and placed in the driver qualification file. After January 30, 2014, a non-excepted, interstate CDL holder without medical certification status information on the CDLIS motor vehicle record is designated "not-certified" to operate a CMV in interstate commerce. After January 30, 2014, a motor carrier may use a copy of the driver's current medical examiner's certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification.

(iii) If that driver obtained the medical certification based on having obtained a medical variance from FMCSA, the motor carrier must also include a copy of the medical variance documentation in the driver qualification file in accordance with § 391.51(b)(8); and

(8) A Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or State Director issued in accordance with § 391.49; or the Medical Exemption document, issued by a Federal medical program in accordance with part 381 of this chapter.

(c) Except as provided in paragraph (d) of this section, each driver's qualification file shall be retained for as long as a driver is employed by that motor carrier and for three years thereafter.

(d) The following records may be removed from a driver's qualification file three years after the date of execution:

(1) The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by § 391.25(a);

(2) The note relating to the annual review of the driver's driving record as required by § 391.25(c)(2);

(3) The list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27;

(4) The medical examiner's certificate required by § 391.43(g), a legible copy of the certificate, or for CDL drivers any CDLIS MVR obtained as required by § 391.51(b)(7)(ii); and

(5) Any medical variance issued by FMCSA, including a Skill Performance Evaluation Certificate issued in accordance with § 391.49; or the Medical Exemption letter issued by a Federal medical program in accordance with part 381 of this chapter.

(Approved by the Office of Management and Budget under control number 2126-004)

[63 FR 33277, June 18, 1998, as amended at 69 FR 16721, Mar. 30, 2004; 73 FR 73127, Dec. 1, 2008; 75 FR 28502, May 21, 2010]

§ 391.53 Driver investigation history file.

(a) After October 29, 2004, each motor carrier must maintain records relating to the investigation into the safety performance history of a new or prospective driver pursuant to paragraphs (d) and (e) of § 391.23. This file must be maintained in a secure location with controlled access.

(1) The motor carrier must ensure that access to this data is limited to those who are involved in the hiring decision or who control access to the data. In addition, the motor carrier's insurer may have access to the data, except the alcohol and controlled substances data.

(2) This data must only be used for the hiring decision.

(b) The file must include:

(1) A copy of the driver's written authorization for the motor carrier to seek information about a driver's alcohol and controlled substances history as required under § 391.23(d).

(2) A copy of the response(s) received for investigations required by paragraphs (d) and (e) of § 391.23 from each previous employer, or documentation of good faith efforts to contact them. The record must include the previous employer's name and address, the date the previous employer was contacted, and the information received about the driver from the previous employer. Failures to contact a previous employer, or of them to provide the required safety performance history information, must be documented.

(c) The safety performance histories received from previous employers for a driver who is hired must be retained for as long as the driver is employed by that motor carrier and for three years thereafter.

(d) A motor carrier must make all records and information in this file available to an authorized representative or special agent of the Federal Motor Carrier Safety Administration, an authorized State or local enforcement agency representative, or an authorized third party, upon request or as part of any inquiry within the time period specified by the requesting representative.

(Approved by the Office of Management and Budget under control number 2126-004)

[69 FR 16721, Mar. 30, 2004]

§ 391.55 LCV Driver-Instructor qualification files.

(a) Each motor carrier must maintain a qualification file for each LCV driver-instructor it employs or uses. The LCV driver-instructor qualification file may be combined with his/her personnel file.

(b) The LCV driver-instructor qualification file must include the information in paragraphs (b)(1) and (b)(2) of this section for a skills instructor or the information in paragraph (b)(1) of this section for a classroom instructor, as follows:

(1) Evidence that the instructor has met the requirements of 49 CFR 380.301 or 380.303;

(2) A photographic copy of the individual's currently valid CDL with the appropriate endorsements.

[69 FR 16738, Mar. 30, 2004; 69 FR 28846, May 19, 2004]

Subpart G—Limited Exemptions

§ 391.61 Drivers who were regularly employed before January 1, 1971.

The provisions of § 391.21 (relating to applications for employment), § 391.23 (relating to investigations and inquiries), and § 391.33 (relating to road tests) do not apply to a driver who has been a single-employer driver (as defined in § 390.5 of this subchapter) of a motor carrier for a continuous period which began before January 1, 1971, as long as he/she continues to be a single-employer driver of that motor carrier.

[63 FR 33278, June 18, 1998]

§ 391.62 Limited exemptions for intra-city zone drivers.

The provisions of §§ 391.11(b)(1) and 391.41(b)(1) through (b)(11) do not apply to a person who:

(a) Was otherwise qualified to operate and operated a commercial motor vehicle in a municipality or exempt intracity zone thereof throughout the one-year period ending November 18, 1988;

(b) Meets all the other requirements of this section;

(c) Operates wholly within the exempt intracity zone (as defined in 49 CFR 390.5);

(d) Does not operate a vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under 49 U.S.C. chapter 51.; and

(e) Has a medical or physical condition which:

(1) Would have prevented such person from operating a commercial motor vehicle under the Federal Motor Carrier Safety Regulations contained in this subchapter;

(2) Existed on July 1, 1988, or at the time of the first required physical examination after that date; and

(3) The examining physician has determined this condition has not substantially worsened since July 1, 1988, or at the time of the first required physical examination after that date.

[61 FR 13346, Mar. 26, 1996; 61 FR 17253, Apr. 19, 1996]

§ 391.63 Multiple-employer drivers.

(a) If a motor carrier employs a person as a multiple-employer driver (as defined in § 390.5 of this subchapter), the motor carrier shall comply with all requirements of this part, except that the motor carrier need not—

(1) Require the person to furnish an application for employment in accordance with § 391.21;

(2) Make the investigations and inquiries specified in § 391.23 with respect to that person;

(3) Perform the annual driving record inquiry required by § 391.25(a);

(4) Perform the annual review of the person's driving record required by § 391.25(b); or

(5) Require the person to furnish a record of violations or a certificate in accordance with § 391.27.

(b) Before a motor carrier permits a multiple-employer driver to drive a commercial motor vehicle, the motor carrier must obtain his/her name, his/her social security number, and the identification number, type and issuing State of his/her commercial motor vehicle operator's license. The motor carrier must maintain this information for three years after employment of the multiple-employer driver ceases.

(Approved by the Office of Management and Budget under control number 2125-0081)

[63 FR 33278, June 18, 1998]

§ 391.64 Grandfathering for certain drivers participating in vision and diabetes waiver study programs.

(a) The provisions of § 391.41(b)(3) do not apply to a driver who was a participant in good standing on March 31, 1996, in a waiver study program concerning the operation of commercial motor vehicles by insulin-controlled diabetic drivers; *provided*:

(1) The driver is physically examined every year, including an examination by a board-certified/eligible endocrinologist attesting to the fact that the driver is:

(i) Otherwise qualified under § 391.41;

(ii) Free of insulin reactions (an individual is free of insulin reactions if that individual does not have severe hypoglycemia or hypoglycemia unawareness, and has less than one documented, symptomatic hypoglycemic reaction per month);

(iii) Able to and has demonstrated willingness to properly monitor and manage his/her diabetes; and

(iv) Not likely to suffer any diminution in driving ability due to his/her diabetic condition.

(2) The driver agrees to and complies with the following conditions:

(i) A source of rapidly absorbable glucose shall be carried at all times while driving;

(ii) Blood glucose levels shall be self-monitored one hour prior to driving and at least once every four hours while driving or on duty prior to driving using a portable glucose monitoring device equipped with a computerized memory;

(iii) Submit blood glucose logs to the endocrinologist or medical examiner at the annual examination or when otherwise directed by an authorized agent of the FMCSA;

(iv) Provide a copy of the endocrinologist's report to the medical examiner at the time of the annual medical examination; and

(v) Provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State or local enforcement official.

(b) The provisions of § 391.41(b)(10) do not apply to a driver who was a participant in good standing on March 31, 1996, in a waiver study program concerning the operation of commercial motor vehicles by drivers with visual impairment in one eye; *provided*:

(1) The driver is physically examined every year, including an examination by an ophthalmologist or optometrist attesting to the fact that the driver:

(i) Is otherwise qualified under § 391.41; and

(ii) Continues to measure at least 20/40 (Snellen) in the better eye.

(2) The driver provides a copy of the ophthalmologist or optometrist report to the medical examiner at the time of the annual medical examination.

(3) The driver provides a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized federal, state or local enforcement official.

[61 FR 13346, Mar. 26, 1996]

§ 391.65 Drivers furnished by other motor carriers.

(a) A motor carrier may employ a driver who is not a regularly employed driver of that motor carrier without complying with the generally applicable driver qualification file requirements in this part, if—

(1) The driver is regularly employed by another motor carrier; and

(2) The motor carrier which regularly employs the driver certifies that the driver is fully qualified to drive a commercial motor vehicle in a written statement which—

(i) Is signed and dated by an officer or authorized employee of the regularly employing carrier;

(ii) Contains the driver's name and signature;

(iii) Certifies that the driver has been regularly employed as defined in § 390.5;

(iv) Certifies that the driver is fully qualified to drive a commercial motor vehicle under the rules in part 391 of the Federal Motor Carrier Safety Regulations;

(v) States the expiration date of the driver's medical examiner's certificate;

(vi) Specifies an expiration date for the certificate, which shall be not longer than 2 years or, if earlier, the expiration date of the driver's current medical examiner's certificate; and

(vii) After April 1, 1977, is substantially in accordance with the following form:

(NAME OF DRIVER)

(SS NO.)

(SIGNATURE OF DRIVER)

I CERTIFY THAT THE ABOVE NAMED DRIVER, AS DEFINED IN § 390.5 IS REGULARLY DRIVING A COMMERCIAL MOTOR VEHICLE OPERATED BY THE BELOW NAMED CARRIER AND IS FULLY QUALIFIED UNDER PART 391, FEDERAL MOTOR CARRIER SAFETY REGULATIONS. HIS/HER CURRENT MEDICAL EXAMINER'S CERTIFICATE EXPIRES ON ____ (DATE)

THIS CERTIFICATE EXPIRES:

(DATE NOT LATER THAN EXPIRATION DATE OF MEDICAL CERTIFICATE)

ISSUED ON ____ (DATE)

ISSUED BY _____

(NAME OF CARRIER)

(ADDRESS)

(SIGNATURE)

(TITLE)

(b) A motor carrier that obtains a certificate in accordance with paragraph (a)(2) of this section shall:

(1) Contact the motor carrier which certified the driver's qualifications under this section to verify the validity of the certificate. This contact may be made in person, by telephone, or by letter.

(2) Retain a copy of that certificate in its files for three years.

(c) A motor carrier which certifies a driver's qualifications under this section shall be responsible for the accuracy of the certificate. The certificate is no longer valid if the driver leaves the employment of the motor carrier which issued the certificate or is no longer qualified under the rules in this part.

[41 FR 36656, Aug. 31, 1976, as amended at 53 FR 18057, May 19, 1988; 60 FR 38745, July 28, 1995; 63 FR 33278, June 18, 1998; 67 FR 61824, Oct. 2, 2002]

§ 391.67 Farm vehicle drivers of articulated commercial motor vehicles.

The following rules in this part do not apply to a farm vehicle driver (as defined in § 390.5 of this subchapter) who is 18 years of age or older and who drives an articulated commercial motor vehicle:

(a) Section 391.11(b)(1), (b)(6) and (b)(8) (relating to general qualifications of drivers);

(b) Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of drivers);

(c) Subpart D (relating to road tests); and

(d) Subpart F (relating to maintenance of files and records).

[63 FR 33278, June 18, 1998]

§ 391.68 Private motor carrier of passengers (nonbusiness).

The following rules in this part do not apply to a private motor carrier of passengers (nonbusiness) and its drivers:

(a) Section 391.11(b)(1), (b)(6) and (b)(8) (relating to general qualifications of drivers);

(b) Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of, drivers);

(c) So much of §§ 391.41 and 391.45 as require a driver to be medically examined and to have a medical examiner's certificate on his/her person; and

(d) Subpart F (relating to maintenance of files and records).

[63 FR 33278, June 18, 1998]

§ 391.69 Private motor carrier of passengers (business).

The provisions of § 391.21 (relating to applications for employment), § 391.23 (relating to investigations and inquiries), and § 391.31 (relating to road tests) do not apply to a driver who was a single-employer driver (as defined in § 390.5 of this subchapter) of a private motor carrier of passengers (business) as of July 1, 1994, so long as the driver continues to be a single-employer driver of that motor carrier.

[63 FR 33278, June 18, 1998]

§ 391.71 [Reserved]