

human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rulemaking does not involve human health or environmental effects.

#### K. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. EPA will use SBA's federal wide mentor protégé program instead of managing its own program.

#### List of Subjects in 48 CFR Parts 1519 and 1552

Environmental protection, Government procurement, Reporting and recordkeeping requirements, Small businesses.

Dated: May 16, 2018.

**Kimberly Patrick,**

*Director, Office of Acquisition Management.*

For the reasons stated in the preamble, 48 CFR parts 1519 and 1552 are amended as set forth below:

#### PART 1519—SMALL BUSINESS PROGRAMS

- 1. The authority citation for part 1519 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

#### 1519.203 [Removed and reserved]

- 2. Section 1519.203 is removed and reserved.

#### PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 3. The authority citation for part 1552 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 41 U.S.C. 418b.

#### 1552.219–70 [Removed and reserved]

- 4. Section 1552.219–70 is removed and reserved.

#### 1552.219–71 [Removed and reserved]

- 5. Section 1552.219–71 is removed and reserved.

[FR Doc. 2018–13349 Filed 6–20–18; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 383, 384, and 391

[Docket No. FMCSA–2018–0152]

RIN 2126–AC18

#### Extension of Compliance Dates for Medical Examiner's Certification Integration

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** FMCSA amends its regulations to delay the compliance date from June 22, 2018, to June 22, 2021, for several provisions of its April 23, 2015 Medical Examiner's Certification Integration final rule. This action is being taken to provide FMCSA additional time to complete certain information technology (IT) system development tasks for its National Registry of Certified Medical Examiners (National Registry) and provide the State Driver's Licensing Agencies (SDLAs) sufficient time to make the necessary IT programming changes after upgrades to the National Registry.

#### DATES:

**Effective Date:** This interim final rule is effective June 21, 2018.

**Public Comment Period:** Comments must be received on or before August 20, 2018.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2018–0152 using any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility, 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:** West Building, Ground Floor, Room W12–

140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- **Fax:** 202–493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, by telephone at 202–366–4001, or by email at [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Rulemaking Documents

###### A. Submitting Comments

If you submit a comment, please include the docket number for this interim final rule (Docket No. FMCSA–2018–0152), indicate the specific section of this document to which each 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 that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA–2018–0152, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

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.

FMCSA will consider all comments and material received during the

comment period and may change this interim final rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

#### Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this interim final rule it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as “confidential” or “CBI.” Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this interim final rule. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that FMCSA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period.

#### B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA–2018–0152, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

#### C. 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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

#### D. Advance Notice of Proposed Rulemaking (ANPRM) or Negotiated Rulemaking Not Required

Under 49 U.S.C. 31136(g), added by section 5202 of the Fixing America’s Surface Transportation or FAST Act, Public Law 114–94, 129 Stat. 1312, 1534 (Dec. 4, 2015), FMCSA is required either to proceed with negotiated rulemaking or to publish an ANPRM for any major rulemaking, unless the Agency finds good cause that an ANPRM is impracticable, unnecessary, or contrary to the public interest. FMCSA has determined that this interim final rule is not major; therefore, neither an ANPRM nor a negotiated rulemaking is required.

### II. Executive Summary

#### A. Purpose and Summary of the Major Provisions

This interim final rule delays the compliance date for several provisions in the Medical Examiner’s Certification Integration final rule (80 FR 22790, Apr. 23, 2015) from June 22, 2018, to June 22, 2021. Specifically, it postpones, through June 22, 2021, the provisions for: (1) FMCSA to electronically, transmit from the National Registry to the SDLAs, driver identification information, examination results, and restriction information from examinations performed for holders of commercial learner’s permits (CLPs) or commercial driver’s licenses (CDLs) (interstate and intrastate); (2) FMCSA to electronically transmit to the SDLAs medical variance information for all commercial motor vehicle (CMV) drivers; (3) SDLAs to post on the Commercial Driver’s License Information System (CDLIS) driver record the driver identification, examination results, and restriction information received electronically from FMCSA; and (4) motor carriers to no longer be required to verify that CLP/CDL drivers were certified by a certified medical examiner (ME) listed on the National Registry.

#### B. Benefits and Costs

This rule results in neither costs nor benefits but aligns the compliance dates with the date when the IT systems will be ready and, thus, when the costs and benefits estimated in the 2015 final rule can be realized.

### III. Legal Basis for the Interim Final Rule

The legal basis of the 2015 final rule, set out at 80 FR 22791–22792, also serves as the legal basis for this interim final rule. Brief summaries of the relevant legal bases for the actions taken in this interim final rule are set out below.

#### A. Authority Over Drivers Affected

##### Drivers Required To Obtain a Medical Examiners Certificate (MEC)

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)). Subject to certain limited exceptions,<sup>1</sup> FMCSA has fulfilled the statutory mandate by establishing physical qualification standards for all drivers covered by these provisions (49 CFR 391.11(b)(4)). Such drivers must obtain, from an ME, a certification indicating that the driver is physically qualified to drive a CMV (49 CFR 391.41(a), 391.43(g) and (h)). FMCSA is also required to ensure that the operation of a CMV does not have a deleterious effect on the physical condition of drivers (49 U.S.C. 31136(a)(4)).

##### Drivers Required To Obtain a CDL

The authority for FMCSA to require an operator of a CMV to obtain a CDL is based on 49 U.S.C. 31302 and the authority to set minimum standards for the testing and fitness of such operators rests on 49 U.S.C. 31305.

#### B. Authority To Regulate State CDL Programs

Under 49 U.S.C. 31311 and 31314, FMCSA has authority to prescribe procedures and requirements the States must follow when issuing CDLs (see, generally, 49 CFR parts 383 and 384). In particular, under section 31314, in order to avoid loss of certain Federal-aid highway funds otherwise apportioned under 23 U.S.C. 104(b), each State must comply with the requirement in 49 U.S.C. 31311(a)(1) to adopt and carry out a program for testing and ensuring the fitness of individuals to operate CMVs consistent with the minimum standards prescribed by FMCSA under 49 U.S.C. 31305(a) (see also 49 CFR 384.201).

#### C. Authority To Require Reporting by MEs

FMCSA has authority under 49 U.S.C. 31133(a)(8) and 31149(c)(1)(E) to require MEs on the National Registry to obtain information from CMV drivers regarding their physical health, to record and retain the results of the physical examinations of CMV drivers, and to require frequent reporting of the information contained on the MECs they issue. Section 31133(a)(8) gives the Agency broad administrative powers (specifically “to prescribe recordkeeping

<sup>1</sup> See 49 CFR 390.3(f) and 391.2.

and reporting requirements”) to assist in ensuring motor carrier safety and driver health (Sen. Report No. 98–424 at 9 (May 2, 1984)). Section 31149(c)(1)(E) authorizes a requirement for electronic reporting of certain specific information by MEs, including applicant names and numerical identifiers as determined by the FMCSA Administrator. Section 31149(c)(1)(E) sets minimum monthly reporting requirements for MEs and does not preclude the exercise by the Agency of its broad authority under section 31133(a)(8) to require more frequent and more inclusive reports.<sup>2</sup> In addition to the general rulemaking authority in 49 U.S.C. 31136(a), the Secretary of Transportation is specifically authorized by section 31149(e) to “issue such regulations as may be necessary to carry out this section.”

Authority to implement these various statutory provisions has been delegated to the Administrator of FMCSA (49 CFR 1.87(f)).

#### IV. Background

##### A. Regulatory History

In 2008, FMCSA issued the Medical Certification Requirements as Part of the Commercial Driver’s License (CDL) final rule (73 FR 73096, Dec. 1, 2008). This rule established requirements for CDL drivers to provide MEC information to SDLAs for posting on the driver record. Then the National Registry of Certified Medical Examiners final rule was issued to establish the National Registry and require that MEs listed on the National Registry perform all physical examinations of CMV drivers and issue MECs to them (77 FR 24104, Apr. 20, 2012). The provisions of these final rules are now in effect.

The Medical Examiner’s Certification Integration final rule adopted a number of changes in the procedures for the preparation, recording, and utilization of Medical Examination Report Forms and MECs for CMV drivers (80 FR 22790, Apr. 23, 2015; 80 FR 35577, Jun. 22, 2015). Some of those changes, such as the specific forms to be used by MEs to record the results of physical examinations and to certify CMV drivers as physically qualified, are already in effect.<sup>3</sup>

But several provisions were adopted with a compliance date of June 22, 2018,

a delay of 3 years, primarily to allow the SDLAs and FMCSA sufficient time to develop, test and install the necessary IT infrastructure to implement them. The final rule required MEs to report results of all CMV drivers’ physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The reporting included results on all CMV drivers who are required to be medically certified to operate in interstate commerce, not only those who hold or apply for CLPs or CDLs. The reported results would be of any examinations performed in accordance with the Federal Motor Carrier Safety Regulations (FMCSRs), as well as those in accordance with any applicable State variances (which will be valid for intrastate operations only). For holders of CLPs/CDLs (interstate and intrastate), FMCSA stated that it would electronically transmit from the National Registry to the SDLAs the driver identification, examination results, and restriction information. The SDLAs would in turn be required to post this information to the CDLIS driver record. The Agency also said it would electronically transmit medical variance information for all CMV drivers to the SDLAs. If the information transmitted so required, the SDLAs were required to change the driver’s certified status on the CDLIS driver record and/or begin a downgrade of the CLP/CDL. Motor carriers, enforcement personnel, and other interested parties would be permitted to rely on the medical certification information on the CDLIS driver record and would no longer be permitted to rely on the original paper MEC as proof of medical certification.

The 2015 final rule also adopted new provisions based on the new reporting requirement for MEs that would invalidate any existing MEC held by a CMV driver whenever the driver failed a new physical qualification examination. If the driver involved was a CLP/CDL holder, such invalidation would be electronically transmitted from the National Registry to the SDLAs for the SDLA to change the certified status on the CDLIS driver record and/or begin a downgrade of the CLP/CDL.

##### B. Recent Developments

As the compliance date of June 22, 2018, draws nearer, FMCSA has reluctantly concluded that it will not be able to electronically transmit MEC information from the National Registry to the SDLAs by that date. Further, the SDLAs will not be able to electronically receive the MEC information from the

National Registry for posting to the CDLIS driver record, as intended by the Medical Examiner’s Certification Integration final rule. Although the Agency has initiated the IT development work to enhance the National Registry to enable the Agency to electronically transmit MEC information and medical variances to the States, along with the programming code the States would need to implement changes to their IT systems to receive the data, none of this work will be completed in time to meet the June 22, 2018 compliance date. Under these circumstances, neither the Agency nor the stakeholders would be able to rely on the CDLIS driver record as official proof of medical certification, unless drivers continue to provide the original paper MEC to the SDLAs, as is being done presently. All of the functions regarding electronic transmission of data that were to be implemented on June 22, 2018, are dependent upon the development and implementation of the IT infrastructure that will not be available on June 22, 2018. For this reason, FMCSA decided to extend the compliance date to June 22, 2021, to ensure that the SDLAs have sufficient time once the final specifications are released to make the necessary IT programming changes.

#### V. Discussion of the Interim Final Rule

This interim final rule is effective immediately and establishes, for most provisions in the 2015 final rule, a new compliance date of June 22, 2021. The specific provisions impacted by this change are listed in the Section-by-Section discussion below. This delayed compliance date means that through June 21, 2021:

- Certified MEs must continue issuing MECs to qualified CLP/CDL applicants/holders;
- CLP/CDL applicants/holders must continue ensuring that the SDLA receives a copy of their MEC;
- Motor carriers must continue verifying that drivers were certified by an ME listed on the National Registry; and
- SDLAs must continue processing paper copies of MECs they receive from CLP/CDL applicants/holders.

It should be noted that the compliance date in today’s rule remains as June 22, 2018, for the requirement for MEs to report results of all CMV driver physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. In other words, except for the ME reporting requirement, this

<sup>2</sup> The provisions of section 31149(c)(1)(E) have been amended by section 32302(c)(1)(A) of Moving Ahead for Progress in the 21st Century, Public Law 112–141, 126 Stat. 405 (July 6, 2012) (“MAP–21”).

<sup>3</sup> Judicial review of this aspect of the 2015 final rule was dismissed for lack of standing in *Owner Operator Indep. Drivers Ass’n v. United States DOT*, 878 F.3d 1099, 1102 (8th Cir. 2018) (rehearing and rehearing en banc) denied Apr. 2, 2018).

interim final rule continues the status quo for another 3 years. The details for these requirements can be found in the preambles of all three of the prior final rules, or in the current regulatory text in 49 CFR parts 383, 384 and 391.

As noted above, FMCSA is not delaying the requirement for MEs performing physical examinations of CMV drivers to report results of all CMV drivers' physical examinations (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination, since several MEs already submit such results more frequently than monthly. Having the MEs begin submitting reports by midnight (local time) of the next calendar day following the examination also allows FMCSA to begin electronically transmitting this important safety data to each State when that State is ready to receive the information, thereby providing States additional flexibility to implement the provisions of this rulemaking at their own pace. FMCSA believes some States may be prepared to receive this data ahead of the June 22, 2021, date to take advantage of the efficiencies and added security the new process affords.

When FMCSA is ready to begin electronically transmitting MEC information from the National Registry, and an SDLA is ready to begin receiving this information electronically from the National Registry, FMCSA will work with the SDLA involved on the most appropriate means to use such electronic transmissions. FMCSA states that, under such circumstances, electronic transmission of the MEC information may be an acceptable

means for CDL and CLP holders to satisfy the requirement of providing the MEC to the SDLA. In order to avoid any uncertainty, provisions are being added to the appropriate regulations stating that, in case of a conflict between the medical certification information provided electronically by FMCSA and information on a paper version of the MEC, the electronic record will be controlling. On the other hand, the provisions in the regulations governing the handling of these matters under the current procedures will remain in effect through June 21, 2021, to ensure continued compliance by SDLAs and other affected stakeholders until the electronic transmission of MEC information is operational for all SDLAs.

If some SDLAs begin receiving MEC information from FMCSA prior to June 22, 2021, FMCSA and the SDLAs will make every effort to advise all stakeholders when such handling begins. MEs listed on the National Registry, employers and enforcement personnel (both State and Federal) will need to be made fully aware that some SDLAs may be following procedures different from the remaining States.

**VI. Good Cause Exists**

Although the promulgation of a final rule adjusting compliance dates would ordinarily involve the issuance of a notice of proposed rulemaking (NPRM) and an opportunity for public comment, the Administrative Procedure Act does permit their omission for good cause, when "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553(b)(B)). The necessary IT infrastructure to enable stakeholders to comply with the regulatory provisions

involved will not be available on June 22, 2018. Under these circumstances, and in order to timely clarify the applicable regulatory requirements, FMCSA finds that there is good cause to issue this interim final rule. A proposed rule allowing prior notice and opportunity for comment could not be completed before June 22 and is therefore both impractical and contrary to the public interest. An opportunity for public comment is provided after publication of the interim final rule. All comments will be reviewed and the interim final rule may be amended as a result of those comments.

*In addition, upon a finding of good cause, the Agency may provide for a final rule to become effective less than 30 days after publication in the Federal Register (5 U.S.C. 553(d)(3)).* Therefore, for the same reasons as indicated above, the Agency makes this interim final rule effective immediately upon publication in the **Federal Register**.

**VII. International Impacts**

The FMCSRs, and any exceptions to the FMCSRs, apply only within the United States (and, in some cases, United States territories). Motor carriers and drivers are subject to the laws and regulations of the countries in which they operate, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences among nations.

**VIII. Section-by-Section Analysis**

*A. Parts 383, 384, and 391*

In parts 383, 384, and 391, FMCSA makes a few clarifying edits and changes the date of the rule as stated in the table below.

TABLE 1—DATE CHANGES

| Section that is changed:    | Existing language in the CFR that is removed today: | Language added to the CFR by today's final rule: |
|-----------------------------|---|--|
| 383.71(h)(1)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.71(h)(1)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.71(h)(3)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.71(h)(3)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(a)(2)(vii)(A) .....  | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(a)(2)(vii)(B) .....  | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(b)(5)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(b)(5)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(1)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(1)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(2)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(2)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(3)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(3)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(4)(i)(A)(1) ..... | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(4)(i)(A)(2) ..... | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(4)(ii)(A) .....   | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 383.73(o)(4)(ii)(B) .....   | June 22, 2018 .....                                 | June 22, 2021.                                   |

TABLE 1—DATE CHANGES—Continued

| Section that is changed:    | Existing language in the CFR that is removed today: | Language added to the CFR by today's final rule: |
|-----------------------------|---|--|
| 384.301(i) .....            | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 391.23(m)(2)(i)(B)(1) ..... | June 22, 2018 .....                                 | June 21, 2021.                                   |
| 391.23(m)(2)(i)(C) .....    | June 22, 2018 .....                                 | June 21, 2021.                                   |
| 391.23(m)(3)(i)(B)(1) ..... | June 22, 2018 .....                                 | June 21, 2021.                                   |
| 391.23(m)(3)(i)(C) .....    | June 22, 2018 .....                                 | June 21, 2021.                                   |
| 391.41(a)(2)(i)(A) .....    | June 22, 2018 .....                                 | June 21, 2021.                                   |
| 391.41(a)(2)(i)(B) .....    | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 391.43(g)(2)(i) .....       | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 391.43(g)(2)(ii) .....      | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 391.43(g)(3) .....          | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 391.45(d) .....             | June 22, 2018 .....                                 | June 22, 2021.                                   |
| 391.51(b)(7)(ii) .....      | June 22, 2018 .....                                 | June 21, 2021.                                   |
| 391.51(b)(9)(ii) .....      | June 22, 2018 .....                                 | June 21, 2021.                                   |

*B. Sections 383.71(h)(4), 383.73(o)(6) and 391.23(m)(4)*

Identical new paragraphs are added to §§ 383.71(h)(4), 383.73(o)(6), and 391.23(m)(4). The added text states that in the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the MEC, the medical certification information provided electronically by FMCSA shall control.

*C. Section 391.41*

In addition to the changes in the compliance dates in § 391.41 noted in the table above, FMCSA adds the phrase “and through June 21, 2021” to § 391.41(a)(2)(ii), following the phrase, “Beginning on July 8, 2015.” This provides an ending date for the provision that CLP holders, while operating a CMV, would be required to carry their MEC, or a copy, for up to 15 days after the date they were issued. FMCSA also adds a new paragraph (a)(2)(iv) that states that in the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the MEC, the medical certification information provided electronically by FMCSA shall control.

**IX. Regulatory Analyses**

*A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures*

FMCSA has determined that this interim final rule is not a significant regulatory action under section 3(f) of E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and

does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980 (44 FR 11034, Feb. 26, 1979).

The Medical Examiner’s Certification Integration Final Rule, published April 23, 2015 (80 FR 22790), amended the FMCSRs to establish a streamlined process for SDLAs to receive CMV driver physical examination results from the MEs, via the National Registry. The 2015 final rule estimated that the National Registry would be able to receive and transmit this information on a daily basis by June 22, 2018, and established compliance dates for MEs, motor carriers, FMCSA, and the States accordingly. This rule, effective today, delays until June 22, 2021, the compliance date requiring (1) FMCSA to electronically transmit from the National Registry to the SDLAs driver identification information, examination results, and restriction information from examinations performed for holders of CLPs/CDLs (interstate and intrastate); (2) FMCSA to electronically transmit to the SDLAs medical variance information for all CMV drivers; (3) SDLAs to post driver identification, examination results, and restriction information received electronically from FMCSA; and (4) motor carriers will no longer need to verify that their drivers holding CLPs or CDLs were certified by an ME listed on the National Registry. This action is being taken to ensure that SDLAs have sufficient time to make the necessary IT programming changes. Although this rule impacts the responsibilities of MEs, CMV drivers, motor carriers, SDLAs, and FMCSA, it is

not expected to generate any economic costs or benefits.

The 2015 final rule accounted for costs associated with system development and implementation, and benefits associated with streamlined processes and reduced paperwork. These costs and benefits (originally anticipated to be realized on the June 22, 2018, compliance date) will not be realized on June 22, 2018. Therefore, the baseline against which to evaluate the impacts of this interim final rule is that the necessary systems will not be ready on June 22, 2018, and will instead be ready on June 22, 2021. This rule aligns the compliance date with the date when the systems will be ready and thus, when the costs and benefits estimated in the 2015 final rule can be realized. This rule does not result in additional costs or benefits, nor does it inhibit the realization of the costs and benefits identified in the 2015 final rule.

*B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)*

This interim final rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.<sup>4</sup>

*C. Regulatory Flexibility Act (Small Entities)*

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612), FMCSA is not required to complete a regulatory flexibility analysis, because, as discussed earlier in the Good Cause Exists section, this action is not subject to notice and comment under section

<sup>4</sup> Executive Office of the President, Office of Management and Budget, Guidance Implementing Executive Order 13771, Titled “Reducing Regulation and Controlling Regulatory Costs.” Memorandum M–17–21. April 5, 2017.

553(b) of the Administrative Procedure Act.<sup>5</sup>

Act.

#### D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this interim final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the interim final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, Ms. Christine A. Hydock listed in the **FOR FURTHER INFORMATION CONTACT** section of this interim final rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

#### E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$156 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2015 levels) or more in any one year. Though this interim final rule will not result in such an expenditure, the Agency does discuss the effects of this rule elsewhere in this preamble.

#### F. Paperwork Reduction Act

This interim final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### G. E.O. 13132 (Federalism)

A rule has implications for Federalism under section 1(a) of Executive Order 13132 if it has "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." FMCSA has determined that this interim final rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

#### H. E.O. 12988 (Civil Justice Reform)

This interim final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

#### I. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing "economically significant" rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this interim final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

#### J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this interim final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

#### K. Privacy

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108-447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does

not require the collection of personally identifiable information (PII). The supporting PIA, available for review in the docket, gives a full and complete explanation of FMCSA practices for protecting PII in general and specifically in relation to this interim final rule.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002, Public Law 107-347, section 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information because of this rule. As a result, FMCSA has not conducted a privacy impact assessment.

#### L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

#### M. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this interim final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

#### N. E.O. 13783 (Promoting Energy Independence and Economic Growth)

E.O. 13783 directs executive departments and agencies to review existing regulations that potentially burden the development or use of domestically produced energy resources, and to appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources. In accordance with E.O. 13783, DOT prepared and submitted a report to the Director of OMB that provides specific

<sup>5</sup> 5 U.S.C 553(b).

recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency action that burden domestic energy production. This interim final rule has not been identified by DOT under E.O. 13783 as potentially alleviating unnecessary burdens on domestic energy production.

*O. E.O. 13175 (Indian Tribal Governments)*

This interim final rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*P. National Technology Transfer and Advancement Act (Technical Standards)*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This interim final rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

*Q. Environment (NEPA, CAA, Environmental Justice)*

FMCSA analyzed this interim final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1(69 FR 9680, Mar. 1, 2004), Appendix 2, paragraph (s)(7) and paragraph (t)(2). The Categorical Exclusion (CE) in paragraph (s)(7) covers requirements for State-issued commercial license documentation and paragraph (t)(2) addresses regulations that assure States have the appropriate information systems and procedures concerning CDL qualifications. The content in this interim final rule is

covered by these CEs and the final action does not have any effect on the quality of the environment. The CE determination is available for inspection or copying in the *Regulations.gov* website listed under **ADDRESSES**.

FMCSA also analyzed this rule under section 176(c) of the Clean Air Act, as amended (CAA) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, "disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this interim final rule in accordance with the E.O., and has determined that no environmental justice issue is associated with this interim final rule, nor is there any collective environmental impact that would result from its promulgation.

**List of Subjects**

*49 CFR Part 383*

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

*49 CFR Part 384*

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

*49 CFR Part 391*

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

In consideration of the foregoing, FMCSA amends 49 CFR chapter III, parts 383, 384, and 391 to read as follows:

**PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES**

■ 1. The authority citation for part 383 continues to read as follows:

**Authority:** 49 U.S.C. 521, 31136, 31301 *et seq.*, and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 297, sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

■ 2. Amend § 383.71 by revising paragraphs (h)(1) and (3), and adding paragraph (h)(4), to read as follows:

**§ 383.71 Driver application and certification procedures.**

\* \* \* \* \*

(h) \* \* \*

(1) *New CLP and CDL applicants.* (i) Before June 22, 2021, a new CLP or CDL applicant who certifies that he/she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of a medical examiner's certificate prepared by a medical examiner, as defined in 49 CFR 390.5, and the State will post a medical qualifications status of "certified" on the CDLIS driver record for the driver;

(ii) On or after June 22, 2021, a new CLP or CDL applicant who certifies that he/she will operate CMVs in non-excepted, interstate commerce must be medically examined and certified in accordance with 49 CFR 391.43 as medically qualified to operate a CMV by a medical examiner, as defined in 49 CFR 390.5. Upon receiving an electronic copy of the medical examiner's certificate from FMCSA, the State will post a medical qualifications status of "certified" on the CDLIS driver record for the driver;

\* \* \* \* \*

(3) *Maintaining the medical certification status of "certified."* (i)

Before June 22, 2021, in order to maintain a medical certification status of "certified," a CLP or CDL holder who certifies that he/she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of each subsequently issued medical examiner's certificate;

(ii) On or after June 22, 2021, in order to maintain a medical certification status of "certified," a CLP or CDL holder who certifies that he/she will operate CMVs in non-excepted, interstate commerce must continue to be medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in 49 CFR 390.5. FMCSA will provide the State with an electronic copy of the medical examiner's certificate information for all subsequent medical examinations in which the driver has been deemed qualified.

(4) In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification

information provided electronically by FMCSA shall control.

■ 3. Amend § 383.73 by revising paragraphs (a)(2)(vii), (b)(5), (o)(1)(i) introductory text, (o)(1)(ii) introductory text, (o)(2), (o)(3), (o)(4)(i)(A), and (o)(4)(ii), and adding paragraph (o)(6), to read as follows:

**§ 383.73 State procedures**

(a) \* \* \*  
(2) \* \* \*

(vii)(A) Before June 22, 2021, for drivers who certified their type of driving according to § 383.71(b)(1)(i) (non-excepted interstate) and, if the CLP applicant submits a current medical examiner's certificate, date-stamp the medical examiner's certificate, and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(B) On or after June 22, 2021, for drivers who certified their type of driving according to § 383.71(b)(1)(i) (non-excepted interstate) and, if FMCSA provides current medical examiner's certificate information electronically, post all required information matching the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(b) \* \* \*

(5)(i) Before June 22, 2021, for drivers who certified their type of driving according to § 383.71(b)(1)(i) (non-excepted interstate) and, if the CDL holder submits a current medical examiner's certificate, date-stamp the medical examiner's certificate and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

(ii) On or after June 22, 2021, for drivers who certified their type of driving according to § 383.71(b)(1)(i) (non-excepted interstate) and, if FMCSA provides current medical examiner's certificate information electronically, post all required information matching the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (o) of this section.

\* \* \* \* \*

(o) \* \* \*

(1)(i) *Status of CLP or CDL holder.* Before June 22, 2021, for each operator of a commercial motor vehicle required to have a CLP or CDL, the current licensing State must:

\* \* \* \* \*

(ii) *Status of CLP or CDL holder.* On or after June 22, 2021, for each operator of a commercial motor vehicle required to have a CLP or CDL, the current licensing State must:

\* \* \* \* \*

(2) *Status update.* (i) Before June 22, 2021, the State must, within 10 calendar days of the driver's medical examiner's certificate or medical variance expiring, the medical variance being rescinded or the medical examiner's certificate being voided by FMCSA, update the medical certification status of that driver as "not certified."

(ii) On or after June 22, 2021, the State must, within 10 calendar days of the driver's medical examiner's certificate or medical variance expiring, the medical examiner's certificate becoming invalid, the medical variance being rescinded or the medical examiner's certificate being voided by FMCSA, update the medical certification status of that driver as "not certified."

(3) *Variance update.* (i) Before June 22, 2021, within 10 calendar days of receiving information from FMCSA regarding issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(ii) On or after June 22, 2021, within 1 business day of electronically receiving medical variance information from FMCSA regarding the issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(4) \* \* \*

(i) \* \* \*

(A)(1) Before June 22, 2021, notify the CLP or CDL holder of his/her CLP or CDL "not-certified" medical certification status and that the CMV privileges will be removed from the CLP or CDL unless the driver submits a current medical examiner's certificate and/or medical variance, or changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State);

(2) On or after June 22, 2021, notify the CLP or CDL holder of his/her CLP or CDL "not-certified" medical certification status and that the CMV privileges will be removed from the CLP or CDL unless the driver has been medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in 49 CFR 390.5, or the driver changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State).

\* \* \* \* \*

(ii)(A) Before June 22, 2021, if a driver fails to provide the State with the certification contained in § 383.71(b)(1),

or a current medical examiner's certificate if the driver self-certifies according to § 383.71(b)(1)(i) that he/she is operating in non-excepted interstate commerce as required by § 383.71(h), the State must mark that CDLIS driver record as "not-certified" and initiate a CLP or CDL downgrade following State procedures in accordance with paragraph (o)(4)(i)(B) of this section.

(B) On or after June 22, 2021, if a driver fails to provide the State with the certification contained in § 383.71(b)(1), or, if the driver self-certifies according to § 383.71(b)(1)(i) that he/she is operating in non-excepted interstate commerce as required by § 383.71(h) and the information required by paragraph (o)(2)(ii) of this section is not received and posted, the State must mark that CDLIS driver record as "not-certified" and initiate a CLP or CDL downgrade following State procedures in accordance with paragraph (o)(4)(i)(B) of this section.

\* \* \* \* \*

(6) In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by FMCSA shall control.

\* \* \* \* \*

**PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM**

■ 4. The authority citation for part 384 continues to read as follows:

**Authority:** 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–59, 113 Stat. 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 stat. 405, 830 and 49 CFR 1.87.

■ 5. Amend § 384.301 by revising paragraph (i) to read as follows:

**§ 384.301 Substantial compliance-general requirements.**

\* \* \* \* \*

(i) A State must come into substantial compliance with the requirements of subpart B of this part and part 383 of this chapter in effect as of June 22, 2015, as soon as practical, but, unless otherwise specifically provided in this part, not later than June 22, 2021.

\* \* \* \* \*

**PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS**

■ 6. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31133, 31136, 31149, and 31502; sec. 4007(b) of Pub. L. 102-240, 105 Stat. 1914, 2152; sec. 114 of Pub. L. 103-311, 108 Stat. 1673, 1677; sec. 215 of Pub. L. 106-159, 113 Stat. 1748, 1767; sec. 32934 of Pub. L. 112-141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114-94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

■ 7. Amend § 391.23 by revising paragraphs (m)(2)(i)(B)(1) and (m)(2)(i)(C), (m)(3)(i)(B)(1) and (m)(3)(i)(C), and adding paragraph (m)(4), to read as follows:

§ 391.23 Investigation and inquiries.

\* \* \* \* \*

(m) \* \* \*

(2) \* \* \*

(i) \* \* \*

(B)(1) Beginning on May 21, 2014, and through June 21, 2021, that the driver was certified by a medical examiner listed on the National Registry of Certified Medical Examiners as of the date of medical examiner's certificate issuance.

\* \* \* \* \*

(C) Exception. Beginning on January 30, 2015, and through June 21, 2021, if the driver provided the motor carrier with a copy of the current medical examiner's certificate that was submitted to the State in accordance with § 383.73(b)(5) of this chapter, the motor carrier may use a copy of that medical examiner's certificate as proof of the driver's medical certification for up to 15 days after the date it was issued.

\* \* \* \* \*

(3) \* \* \*

(i) \* \* \*

(B)(1) Through June 21, 2021, that the driver was certified by a medical examiner listed on the National Registry of Certified Medical Examiners as of the date of medical examiner's certificate issuance.

\* \* \* \* \*

(C) Through June 21, 2021, if the driver provided the motor carrier with a copy of the current medical examiner's certificate that was submitted to the State in accordance with § 383.73(a)(2)(vii) of this chapter, the motor carrier may use a copy of that medical examiner's certificate as proof of the driver's medical certification for up to 15 days after the date it was issued.

\* \* \* \* \*

(4) In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by FMCSA shall control.

■ 8. Amend § 391.41 by revising paragraphs (a)(2)(i) and (ii), and adding paragraph (a)(2)(iv), to read as follows:

§ 391.41 Physical qualifications for drivers.

(a) \* \* \*

(2) \* \* \*

(i)(A) Beginning on January 30, 2015 and through June 21, 2021, a driver required to have a commercial driver's license under part 383 of this chapter, and who submitted a current medical examiner's certificate to the State in accordance with 49 CFR 383.71(h) documenting that he or she meets the physical qualification requirements of this part, no longer needs to carry on his or her person the medical examiner's certificate specified at § 391.43(h), or a copy, for more than 15 days after the date it was issued as valid proof of medical certification.

(B) On or after June 22, 2021, a driver required to have a commercial driver's license or a commercial learner's permit under 49 CFR part 383, and who has a current medical examiner's certificate documenting that he or she meets the physical qualification requirements of this part, no longer needs to carry on his or her person the medical examiner's certificate specified at § 391.43(h).

(ii) Beginning on July 8, 2015, and through June 21, 2021, a driver required to have a commercial learner's permit under part 383 of this chapter, and who submitted a current medical examiner's certificate to the State in accordance with § 383.71(h) of this chapter documenting that he or she meets the physical qualification requirements of this part, no longer needs to carry on his or her person the medical examiner's certificate specified at § 391.43(h), or a copy for more than 15 days after the date it was issued as valid proof of medical certification.

\* \* \* \* \*

(iv) In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by FMCSA shall control.

\* \* \* \* \*

■ 9. Amend § 391.43 by revising paragraphs (g)(2) and (3) to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

\* \* \* \* \*

(g) \* \* \*

(2)(i) Before June 22, 2021, if the medical examiner finds that the person examined is physically qualified to operate a commercial motor vehicle in

accordance with § 391.41(b), he or she must 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 must provide a copy to a prospective or current employing motor carrier who requests it.

(ii) On or after June 22, 2021, if the medical examiner identifies that the person examined will not be operating a commercial motor vehicle that requires a commercial driver's license or a commercial learner's permit and finds that the driver is physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b), he or she must 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 must provide a copy to a prospective or current employing motor carrier who requests it.

(3) On or after June 22, 2021, if the medical examiner finds that the person examined is not physically qualified to operate a commercial motor vehicle in accordance with § 391.41(b), he or she must inform the person examined that he or she is not physically qualified, and that this information will be reported to FMCSA. All medical examiner's certificates previously issued to the person are not valid and no longer satisfy the requirements of § 391.41(a).

\* \* \* \* \*

■ 10. Amend § 391.45 by revising paragraph (d) to read as follows:

§ 391.45 Persons who must be medically examined and certified.

\* \* \* \* \*

(d) On or after June 22, 2021, any person found by a medical examiner not to be physically qualified to operate a commercial motor vehicle under the provisions of paragraph (g)(3) of § 391.43.

■ 11. Amend § 391.51 by revising paragraphs (b)(7)(ii) and (b)(9)(ii) to read as follows:

§ 391.51 General requirements for driver qualification files.

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

(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,

2015, 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, 2015 and through June 21, 2021, 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.

\* \* \* \* \*

(9) \* \* \*

(ii) Through June 21, 2021, for drivers required to have a CDL, a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by § 391.23(m)(2).

\* \* \* \* \*

Issued under authority delegated in 49 CFR 1.87 on: June 15, 2018.

**Raymond P. Martinez,**

*Administrator.*

[FR Doc. 2018–13314 Filed 6–20–18; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 170901861–8524–02]

RIN 0648–BH08

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Biennial Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements annual harvest specifications and management measures to establish allowable catch levels for Pacific mackerel for the fishing years 2017–2018 and 2018–2019. The harvest guideline (HG) and annual catch target (ACT) for the 2017–2018 fishing year are 26,293 metric tons (mt) and 25,293 mt, respectively. The HG and ACT for the 2018–2019 fishing year are 23,840 mt and 22,840 mt, respectively. The ACT serves as the primary directed commercial harvest quotas. If the fishery attains the ACT in either fishing year, the directed fishery will close, reserving the difference between the HG and ACT as a 1,000 mt set-aside for incidental landings in other fisheries. If the HG is

reached, all retention would be prohibited through the end of the fishing year. This rule is intended to conserve and manage the Pacific mackerel stock off the U.S. West Coast.

**DATES:** Effective July 23, 2018 through June 30, 2019.

**ADDRESSES:** Copies of the report, “Pacific Mackerel Biomass Projection Estimate for USA Management in 2017–2018 and 2018–2019” may be obtained from the West Coast Regional Office, 501 W Ocean Blvd., Ste. 4200, Long Beach, CA 90802–4250.

**FOR FURTHER INFORMATION CONTACT:**

Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034.

**SUPPLEMENTARY INFORMATION:** Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, NMFS manages the Pacific mackerel fishery in the U.S. Exclusive Economic Zone off the West Coast in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The CPS FMP and its implementing regulations require NMFS to set annual harvest specifications for the Pacific mackerel fishery based on the annual specification framework and control rules in the FMP. The control rules in the CPS FMP include the HG control rule, which in conjunction with the overfishing limit (OFL) and acceptable biological catch (ABC) rules, are used to manage harvest levels for Pacific mackerel. According to the FMP, the quota for the principal commercial fishery, the HG, is determined using the FMP-specified HG formula. The HG is based, in large part, on the current estimate of stock biomass. The biomass estimate is an explicit part of the various harvest control rules for Pacific mackerel, and as the estimated biomass decreases or increases from one year to the next, the resulting allowable catch levels similarly trend. More information on the Pacific Fishery Management Council’s (Council) process for developing Pacific mackerel harvest specifications and more detail on the HG control rule are provided in the proposed rule for this action (82 FR 56204) and are not repeated here.

The purpose of this final rule is to implement these harvest specifications, which include allowable harvest levels (ACT, HG, annual catch limit (ACL)), as well as annual catch reference points (OFL and ABC) that take into consideration uncertainty surrounding the current biomass estimates for Pacific mackerel for the 2017–2018 and 2018–2019 fishing years. As described above, the Pacific mackerel HG control rule is the primary mechanism for setting the

annual commercial fishery quota, however the Council recommended, and NMFS is implementing, ACTs under the HG that will trigger a closure of directed commercial fishing for Pacific mackerel and incidental harvest provisions. The reason for instituting an ACT and closing directed fishing at the ACT instead of all commercial catch at the HG, is that Pacific mackerel commonly school with other CPS; the 1,000 mt buffer between the ACT and HG would allow for the continued prosecution of these other important CPS fisheries after the ACT for Pacific mackerel is attained. The OFL is the catch level above which overfishing would be occurring and the ABC is set below the OFL to account for scientific uncertainty in the OFL. The ACL can be set equal to or less than the ABC if necessary to ensure overfishing does not occur and serves as the basis to invoke management controls that can prevent the ACL from being exceeded and to correct or mitigate overages of the ACL if they occur, and can be set no higher than the ABC.

The Council recommended, and NMFS is implementing, Pacific mackerel harvest specifications and management measures for both the 2017–2018 and 2018–2019 fishing years. For the 2017–2018 Pacific mackerel fishing year these include an OFL of 30,115 mt, an ABC and ACL of 27,510 mt, a HG of 26,293 mt, and an ACT of 25,293 mt. For the 2018–2019 Pacific mackerel fishing year these include an OFL of 27,662 mt, an ABC and ACL of 25,269 mt, a HG of 23,840 mt, and an ACT of 22,840 mt. The Pacific mackerel fishing season runs from July 1 to June 30. These catch specifications are based on the control rules established in the CPS FMP and biomass estimates of 143,403 mt (2017–2018) and 131,724 mt (2018–2019). These biomass estimates are the result of the NMFS Southwest Fishery Science Center’s Pacific mackerel stock assessment completed in June 2015, and a subsequent catch-only projection estimate completed in June 2017. The Council’s Scientific and Statistical Committee approved the biomass estimates from the assessment and catch-only projection estimate as the best available scientific information for management at its June 2017 meeting (see **ADDRESSES**).

Upon the unlikely attainment of the ACT in either fishing year, directed fishing would close, reserving the difference between the HG and ACT (1,000 mt) as a set aside for incidental landings in other fisheries and other sources of mortality. For the remainder of the fishing year, incidental landings would be constrained to a 45-percent incidental catch allowance when Pacific