

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Part 391****[Docket No. FMCSA–2025–0113]****RIN 2126–AC87****Qualifications of Drivers; Vision Standards Grandfathering Provision**

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to amend the Federal Motor Carrier Safety Regulations to remove the grandfathering provision under the physical qualifications standards for interstate drivers operating under the previously administered vision waiver study program, as this regulation is now obsolete. The waiver study program was terminated prior to the adoption of rules in 1998 implementing the Transportation Equity Act for the 21st Century provision concerning waivers, exemptions and pilot programs.

DATES: Comments must be received on or before July 29, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2025–0113 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2025-0113/document>. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–2551; fmcsamedical@dot.gov. Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions on viewing or

submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION: FMCSA organizes this NPRM as follows:

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I. Public Participation and Request for Comments**A. Submitting Comments**

If you submit a comment, please include the docket number for this NPRM (FMCSA–2025–0113), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2025-0113/document>, click on this NPRM, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

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

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0113/document> and choose the document to review. To view comments, click this NPRM, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/>

individuals/privacy/privacy-act-system-records-notices. The comments are posted without edits and are searchable by the name of the submitter.

II. Abbreviations

ANPRM Advance notice of proposed rulemaking
 CFR Code of Federal Regulations
 CMV Commercial motor vehicle
 DOT Department of Transportation
 FHWA Federal Highway Administration
 FMCSA Federal Motor Carrier Safety Administration
 FR Federal Register
 ME Medical examiner
 NPRM Notice of proposed rulemaking
 PIA Privacy Impact Assessment
 PTA Privacy Threshold Assessment
 UMRA Unfunded Mandates Reform Act of 1995
 U.S.C. United States Code

III. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(a) and 31502(b)—delegated to the Agency by 49 CFR 1.87(f) and (i), respectively—to establish minimum qualifications, including physical qualifications, for individuals operating commercial motor vehicles (CMVs) in interstate commerce. Section 31136(a)(3) requires specifically that the Agency's safety regulations ensure that the physical condition of CMV drivers is adequate to enable them to operate their vehicles safely and that certified medical examiners (MEs) trained in physical and medical examination standards perform the physical examinations required of such drivers.

In addition to the statutory requirements specific to the physical qualifications of CMV drivers, section 31136(a) requires the Secretary of Transportation (Secretary) to issue regulations on CMV safety, including regulations to ensure that CMVs “are maintained, equipped, loaded, and operated safely” (section 31136(a)(1)). The remaining statutory factors and requirements in section 31136(a), to the extent they are relevant, are also satisfied here. The proposed rule would not impose any “responsibilities . . . on operators of [CMVs that would] impair their ability to operate the vehicles safely” (section 31136(a)(2)), or “have a deleterious effect on the physical condition” of CMV drivers (section 31136(a)(4)). FMCSA also does not anticipate that drivers would be coerced to operate a vehicle because of this rulemaking (section 31136(a)(5)).

Finally, prior to prescribing any regulations, FMCSA must consider their “costs and benefits” (49 U.S.C. 31136(c)(2)(A) and 31502(d)). Those factors are discussed in the Regulatory Analyses section of this NPRM.

IV. Background

FMCSA's mission is to reduce crashes, injuries, and fatalities involving large trucks and buses. As discussed above, FMCSA is authorized by statute to establish minimum physical qualification standards for drivers of CMVs operating in interstate commerce. Physical qualification requirements date back to 1937, as implemented by the ICC's Bureau of Motor Carrier Safety. (2 FR 113, Jan. 22, 1937). Regulations setting forth the physical qualification standards are currently found in 49 CFR part 391, with the vision requirements at 49 CFR 391.41(b)(10).

The Federal Highway Administration (FHWA), which administered the physical qualification standards for CMV drivers prior to the transfer of this function to FMCSA, revised the vision standard in 1970 (35 FR 6458, 6463, Apr. 22, 1970). Although MEs who are knowledgeable about the on-the-job functions performed by a commercial driver make the determination about a driver's qualifications and whether the driver has a condition that would interfere with the operation of a CMV for most of the 13 physical qualification standards, FHWA's vision standard was absolute and provided no discretion to the ME. Thus, any individual who did not meet the vision standard in its entirety could not be physically qualified to drive a CMV in interstate commerce.

In July 1992, FHWA announced its decision to issue waivers of the vision requirements and published the final criteria for the vision waiver study program (57 FR 31458, July 16, 1992). Under the vision waiver study program, FHWA issued waivers to drivers following an individual determination of each driver's capability to operate a CMV safely. On August 2, 1994, the United States Court of Appeals for the District of Columbia Circuit found that FHWA's determination that the vision waiver study program would not adversely affect the safe operation of CMVs lacked empirical support in the record (*Advocates for Highway and Auto Safety v. FHWA*, 28 F.3d 1288, 1294 (D.C. Cir. 1994)). Accordingly, the court found that FHWA failed to meet the exacting statutory requirements to grant a waiver. Consequently, the court concluded that FHWA's adoption of the waiver program was contrary to law and vacated and remanded the decision to FHWA.

On November 17, 1994, FHWA published notice of its final determination to continue the vision waiver study program through March 31, 1996, and announced a change in

the research plan (59 FR 59386). On March 26, 1996, FHWA issued a rule to allow those drivers participating in the vision waiver study program and holding valid waivers from the vision standard to continue to operate in interstate commerce after March 31, 1996 (61 FR 13338). FHWA amended 49 CFR part 391 by adding a new provision at § 391.64 to grant grandfather rights to these drivers, subject to certain conditions.

Following the enactment of the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, 401, June 9, 1998), which made amendments to the statutes governing exemptions, FHWA established a current Federal vision exemption program on December 8, 1998 (63 FR 67600). FHWA, and later FMCSA, monitored the safety performance of drivers in the vision waiver study and the current exemption programs continuously. Based on the experience with the vision waiver study and exemption programs, FMCSA determined that the safety performance of individuals in these programs is at least as good as that of the general population of CMV drivers. Therefore, in 2022, FMCSA amended its regulations to permit an individual who does not satisfy, with the worse eye, either the existing distant visual acuity standard with corrective lenses or the field of vision standard, or both, to be physically qualified to operate a CMV in interstate commerce if the individual satisfies the new alternative vision standard found at § 391.44, along with FMCSA's other physical qualification standards and other requirements. (87 FR 3390, Jan. 21, 2022). The 2022 rule eliminated the need for both the vision exemption program that then existed and the grandfather provision in § 391.64 for drivers operating under the previously administered vision waiver study program.

The grandfathering provision remained in effect until March 22, 2023. After that date, all drivers were required meet the new alternative vision standard and all Medical Examiner Certificates, Form MCSA-5876, issued under § 391.64 were voided. As the grandfathering provision no is longer applicable to any drivers, FMCSA has determined it should now be removed.

V. Discussion of Proposed Rulemaking

FMCSA proposes to remove 49 CFR 391.64(b), which set out the requirements for participants in the vision waiver study program to remain grandfathered into that program until March 22, 2023. This change will not affect any current CMV drivers because,

under the 2022 final rule, all drivers have been required to satisfy the alternative vision standard set out at 49 CFR 391.44 since March 22, 2023.

While the 2022 final rule amended 49 CFR 391.64(b) to include the date the provisions of that paragraph would no longer be in effect, it did not contain any instructions for the removal of those provisions from the Code of Federal Regulations (CFR). Thus, this proposed rulemaking would remove the obsolete language from FMCSA's regulations.

VI. International Impacts

Motor carriers and drivers are subject to the laws and regulations of the countries that they operate in, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences between nations.

VII. Section-by-Section Analysis

This section-by-section analysis describes the proposed changes in numerical order.

Section 391.64 Grandfathering for certain drivers who participated in a vision waiver study program.

FMCSA would remove 49 CFR 391.64 (b). As paragraph (a) is currently reserved, the title of the section would be amended to indicate that the entire section is now reserved.

VIII. 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 considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

This proposed rule would remove obsolete language that is no longer relevant. FMCSA does not expect that any regulated entities would change their behavior as a result of this proposed rule, and therefore the proposed rule would not result in any impacts to regulated entities other than

removing unnecessary language from the CFR. It could result in some cost savings by reducing the amount of time to become familiar with the regulations. FMCSA assumes any realized cost savings to be de minimis. FMCSA does not have data to estimate the reduction in costs that would result from this NPRM. FMCSA requests comment on any impacts that could result from removing the provisions identified in this NPRM.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”¹

Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.²

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This rulemaking is expected to have total costs less than zero as it is removing unnecessary language from and streamlining the CFR, and therefore would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. The cost savings of this rulemaking could not be quantified.

C. Advance Notice of Proposed Rulemaking

Under 49 U.S.C. 31136(g), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or proceed with a negotiated rulemaking, if a proposed safety rule “under this part”³ is likely to lead to the promulgation of a major rule.⁴ As this proposed rule is not likely to result in

the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁵ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

No regulatory flexibility analysis is required, however, if the head of an agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would remove obsolete regulatory text that is no longer impacting regulated entities and would not impose costs or benefits. Therefore, it would not impact a substantial number of small entities. It could result in some cost savings by reducing the amount of time necessary to become familiar with the regulations. FMCSA considers any realized cost savings to be de minimis. Consequently, I certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

E. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees

¹ Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*. 90 FR 9065–9067. Feb. 6, 2025.

² Executive Office of the President. Office of Management and Budget. *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.”* Memorandum M–25–20, March 26, 2025.

³ Part B of Subtitle VI of Title 49, United States Code, *i.e.*, 49 U.S.C. chapters 311–317.

⁴ A *major rule* means any rule that the Office of Management and Budget finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

⁵ Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-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.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) 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 \$206 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2024 levels) or more in any 1 year. Because this proposed rule would not result in such an expenditure, a written statement is not required.

G. Paperwork Reduction Act

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 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 proposed 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 proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

I. Privacy

The Consolidated Appropriations Act, 2005,⁶ requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This NPRM would not require the collection of personally identifiable information.

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

The E-Government Act of 2002,⁷ 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 as a result of this proposed rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency will complete a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA will be submitted to FMCSA's Privacy Officer for review and preliminary adjudication and to DOT's Privacy Officer for review and final adjudication.

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

This proposed 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.

K. National Environmental Policy Act of 1969

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). This action would likely fall under a published categorical exclusion and thus be excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2. Specifically, paragraphs (6)(b), which covers regulations that are

⁶ Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

⁷ Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

procedural or technical in nature, and (6)(z)(1), which covers the minimum qualifications for persons who drive CMVs. The Agency also believes this proposed rule, if finalized, would not have a reasonably foreseeable significant effect on the quality of the human environment. The public is invited to comment on the impact of the proposed Agency action.

L. Rulemaking Summary

In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at [regulations.gov](https://www.regulations.gov), under the docket number.

List of Subjects in 49 CFR Part 391

Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

Accordingly, FMCSA proposes to amend 49 CFR part 391 to read as follows:

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

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

Authority: 49 U.S.C. 504, 508, 31133, 31136, 31149, 31502; sec. 4007(b), Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106–159, 113 Stat. 1748, 1767; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; secs. 5403 and 5524, Pub. L. 114–94, 129 Stat. 1312, 1548, 1560; sec. 2, Pub. L. 115–105, 131 Stat. 2263; and 49 CFR 1.87.

§ 391.64 [Removed and Reserved]

■ 2. Remove and reserve § 391.64. Issued under authority delegated in 49 CFR 1.87.

Sue Lawless,

Assistant Administrator.

[FR Doc. 2025–09707 Filed 5–27–25; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 392

[Docket No. FMCSA–2021–0050]

RIN 2126–AC39

Railroad Grade Crossings; Stopping Required: Exception for Railroad Grade Crossing Equipped With Active Warning Device Not in Activated State

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