

DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-20105]

**Announcement of Establishment of the Federal Motor Carrier Safety
Administration Medical Review Board; Request for Nominations**

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

ACTION: Notice of establishment of the FMCSA Medical Review Board; request for nominations.

SUMMARY: FMCSA announces the establishment of a Medical Review Board as requested by the recent passage of Safe, Accountable, Flexible, and Efficient Transportation Equity Act; A Legacy for Users (SAFETEA-LU). The Medical Review Board will provide scientific advice to The Secretary of Transportation and the Administrator of FMCSA on medical issues including the physical qualification requirements for commercial motor vehicle (CMV) operators. This announcement provides details about the purpose and functions of the FMCSA Medical Review Board, in accordance with the Federal Advisory Committee Act (FACA). This notice also discusses the Agency's medical research priorities and solicits applications from interested physicians to serve on the Medical Review Board. The Secretary of Transportation will appoint five physicians to the Medical Review Board, and the board will begin work in fiscal year 2006.

DATES: Applications must be received by October 30, 2005. FMCSA will periodically call for applications as deemed necessary.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, Physical Qualifications Division, 202-366-4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8:00 a.m. to 5:00 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

The physical qualification regulations for CMV drivers in interstate commerce are found in 49 CFR §391.41. Section 391.43 contains instructions to medical examiners for performing physical examinations of CMV drivers. FMCSA medical standards and guidelines are critical medical program components in accomplishing FMCSA's mission to reduce crashes, injuries, and fatalities involving large trucks and buses.

The Agency has current statutory authority under 49 U.S.C. 31502 and 31136 to determine the physical qualifications of interstate CMV drivers. Congress passed the SAFETEA-LU of 2005 (PubL. 109-59), Section 31149 requires FMCSA to establish the Medical Review Board to provide scientific advice on matters related to CMV driver health and safety.

II. MEDICAL REVIEW BOARD CHARTER [This is the text of the Medical Review Board Charter that DOT/FMCSA has filed with the General Services Administration]:

a) Purpose

This charter establishes the Federal Motor Carrier Safety Administration Medical Review Board Advisory Committee (Medical Review Board) and provides for its

operation in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), DOT Order 1120.3B, and the requirements prescribed in Title 41, Code of Federal Regulations Part 102-3 and Title 49, Code of Federal Regulations, Part 95. The purpose of the FMCSA Medical Review Board is to establish a nationally recognized standing board of medical experts to provide scientific advice to FMCSA on ongoing medical issues, including identification of appropriate physical qualifications of commercial motor vehicle drivers, medical standards and guidelines, educational curriculum for training medical examiners who certify drivers meet the physical qualification standards, and functional tests for drivers with certain disabilities. The Medical Review Board will be charged initially with the review of all current FMCSA medical standards, as well as proposing new science-based standards and guidelines to ensure that drivers operating CMVs in interstate commerce, as defined in 49 CFR 390.5, are physically capable of doing so.

b) Scope

The FMCSA Medical Review Board provides information, advice and recommendations to the Secretary of Transportation and the Administrator of FMCSA on matters relating to all aspects of development and implementation of science-based physical qualification standards applicable to interstate CMV drivers. The Medical Review Board does not hold regulatory development responsibilities, manage programs or make decisions affecting such programs. The Medical Review Board provides a forum for the development, consideration, and communication of information from a knowledgeable, scientific perspective.

c) Objectives and Duties

Consistent with the scope of activities described above, the Medical Review

Board is authorized to:

1. Undertake such information gathering activities as necessary to define issues for consideration by the Medical Review Board, develop positions on those issues, and communicate the Medical Review Board's position thereon to the Secretary of Transportation and the Administrator of FMCSA;
2. Provide FMCSA with ongoing medical expertise to shape decisions about the health and wellness of CMV drivers, including physical qualifications, medical advisory criteria and safety research;
3. Advise FMCSA on the development of uniform driver physical qualification (medical) standards and CMV driver health and wellness;
4. Advise FMCSA on the development of scientific guidelines, criteria, and procedures to facilitate implementation of the physical qualification standards by qualified medical examiners;
5. Provide advice and recommendations for the development of a functional capacity test for individuals with certain impairments;
6. Provide advice on conduct and conclusions of FMCSA medical research and on policies or issues related to CMV driver physical qualifications standards; and
7. Provide advice and recommendations for the establishment and maintenance of medical examiner training and certification processes.

d) Designated Federal Officer and Sponsor

The Designated Federal Officer (DFO) for this advisory committee and its subcommittees is the Associate Administrator, Policy and Program Development, or his or her designee. The Committee sponsor is the Director, Office of Bus and Truck Standards and Operations, or his or her designee. FMCSA's Office of Bus and Truck Standards and Operations shall furnish support services for the operation of the Medical

Review Board. The DFO shall designate the facilitator of the Medical Review Board, who shall be an FMCSA employee.

e) Membership

The Medical Review Board shall be composed of 5 non- Federal Government employee members, each of whom shall be appointed by the Secretary of Transportation upon the recommendation of the Administrator of FMCSA. The members serve in a representative capacity, and are not special government employees. Criteria for appointment include: medical expertise in a medical specialty, an understanding of research methods, knowledge of transportation medical issues, experience on panels that develop medical standards, a record of scientific collaboration and professional service, and experience developing teaching programs. Medical specialties include, but will not be limited to, Cardiovascular and Cerebrovascular Diseases, Endocrine Diseases, Injury, Medicolegal Issues, Neurological Disorders, and Psychiatric Diseases. The facilitator acts as chairperson and impartial mediator to assist in reconciling opposing interests and points of view among committee members.

f) Appointments

Each member shall be appointed for a two-year term, with each member eligible for reappointment, based on FMCSA's needs and any medical standards research in progress at the time. After the first two years, the terms shall be staggered, with three positions expiring after one year (subject to a two year renewal) and two positions expiring after two years (subject to a two year renewal). The Medical Review Board will operate continuously with 5 active members. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was

appointed shall serve out the predecessor's term. Notwithstanding the above, the Secretary or his or her designee may terminate a member at his or her discretion.

g) Meetings

The DFO anticipates calling Medical Review Board meetings at least three times each fiscal year (excluding the initial year). The agenda for all meetings shall be set by the DFO. The following procedures shall govern the conduct of all FMCSA Medical Review Board meetings:

Meetings shall be open to the general public, except as provided under FACA. Interested persons shall be permitted to attend, appear before, or file statements with the Medical Review Board, as practicable.

Notice of each meeting shall be published in the Federal Register at least 15 calendar days prior to the date of the meeting. Notice shall include the agenda.

The DFO or designee shall attend and preside at each meeting.

The DFO or designee shall adjourn any meeting when he or she determines it to be in the public interest.

Detailed minutes of each meeting shall be certified by the DFO and maintained by the sponsor. The minutes shall contain:

1. the date, time, and place of the meeting;
2. a record of all attendees at the meeting;
3. a complete and accurate description of all matters discussed and conclusions reached;
4. copies of all reports received, issued, or approved by the Committee; and
5. a description of public participation, including oral or written statements.

The minutes, as certified, shall be available for public inspection and copying in the office of the sponsor. Public availability of minutes or other documents received or

generated by the Committee are subject to applicable limitations and exceptions prescribed in the Freedom of Information Act (5 U.S.C. § 552).

h) Travel and Expenses

Committee members are not officers or employees of the Federal Government and, while attending meetings or otherwise engaged in the business of the Committee, are authorized travel and subsistence or per diem allowances (as appropriate) in accordance with Federal Government regulations. All travel by individual members when engaged in official Committee business shall be approved in advance by the DFO, and arranged and funded by the sponsor.

i) Estimated Cost and Support

The estimated annual direct operating cost of the Medical Review Board is \$96,596.00, which includes travel and subsistence costs of members, printing and miscellaneous costs. The amount of person hours to support the Medical Review Board is an estimated 5,200 per year.

j) Report to the Secretary

Within 90 days following the last meeting of each fiscal year, the DFO shall submit to the Secretary and the FMCSA Administrator an annual report describing the Committee's membership, activities, and accomplishments for the past calendar year. The DFO shall provide the Secretary and FMCSA Administrator with any interim reports as requested. The DFO may direct the committee to prepare these and any other reports.

k) Effective Date

The charter was filed on September 20, 2005. The Medical Review Board will terminate two years after this date unless prior to that time the charter is extended in accordance with FACA and other applicable requirements.

III. RESEARCH DECISION MODEL:

The prioritization of FMCSA medical standards review and development work will be based on a scientific grid analysis model. This decision model scores the relevance of a selected medical standard or guideline (or absence of standard or guideline) using five factors. These five factors, calculated using a weighted calculation method, are: crash risk (direct measurable risk for CMV crash); Departmental and Agency priorities (e.g., legal requirement); age of guidelines; adequacy of guidance (for selected medical topic); and epidemiologic prevalence in general population (or in CMV driver population if available).

The Agency has developed the initial schedule for medical standards and guidelines review and development, and will direct the Medical Review Board to evaluate the review and development schedule on a semi-annual basis. These scientific reviews will be comprehensive or expedited. Preliminary schedule of medical research topics, based on the research decision model, follows:

Quarter 1 2006 – Drug/Alcohol (comprehensive); Diabetes Mellitus (expedited)

Quarter 2 2006 – Sleep; Neurology (comprehensive); Cardiovascular (expedited)

Quarter 3 2006 – Musculoskeletal (comprehensive); Vision (expedited)

Quarter 4 2006 – Psychiatry; Renal (comprehensive); Infectious Disease (expedited)

Quarter 1 2007 – Injury (comprehensive); Hearing; Post Surgical (expedited)

Quarter 2 2007 – Medicolegal; Pulmonary (comprehensive)

The decision model details and schedule of research activities will be made available to the public, in accordance with FACA.

IV. REQUEST FOR APPLICATIONS:

FMCSA seeks physicians from many different medical specialties to develop science-based CMV physical qualification standards, medical advisory criteria and safety policies. As members of the Agency's first Medical Review Board, physicians will provide expert guidance on medical guidelines and standards. The Agency is committed to appointing physicians with diverse professional backgrounds, as well as a broad array of gender, ethnicity, demographic and socioeconomic factors. To be eligible for appointment, physicians must have a current U.S. medical license and current board certification in a specialty area directly related to medical certification requirements, be able to attend three to four meetings a year in Washington, DC and via teleconference, and spend approximately five hours per month providing additional consultation. Interested physicians should have a commitment to transportation safety and health, an understanding of research methods, knowledge of transportation medical issues, experience on panels that develop medical standards, a record of collaboration and professional service, and experience developing teaching programs. For application information, please contact Laurie Conly at 571-633-0152, or via e-mail at contactmrb@fmcsa.dot.gov. FMCSA will accept applications through October 30, 2005, and will periodically call for applications as the Medical Review Board work continues.