

DIVISION 63  
MEDICAL STANDARDS FOR DRIVERS OF COMMERCIAL MOTOR VEHICLES

**735-063-0000**

**Definitions**

As used in this division the following definitions apply:

(1) “Accident/conviction records” are records used to establish when a Waiver of Physical Disqualification issued by DMV may be denied or suspended. Accident records include, but are not limited to DMV records, police reports, crash reports or other reports from motor carriers. A conviction record is an official record showing a determination of guilt by a court of law upon a plea, verdict, finding, or unvacated bail forfeiture.

(2) “CDL” means commercial driver license.

(3) “CMV” means commercial motor vehicle.

(4) “Disqualifying condition” is a medical condition(s) not meeting FMCSA physical qualification standards as set forth in FMSCR 49 CFR, § 391.49(b).

(5) “DMV” means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(6) “FMCSA” means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

(7) “FMCSR” means the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation, 49 CFR sections 300 to 399.

(8) “Intrastate commerce” is defined in FMCSR § 390.5 and includes any trade, traffic or transportation exclusively within Oregon.

(9) “Medical Determination Officer” is a physician, nurse practitioner or physician assistant, licensed to provide health care services by the State of Oregon, and employed or designated by DMV to make medical determinations of a driver’s medical eligibility for driving privileges.

(10) “Medical Specialist” is a person who is licensed as a doctor of medicine, a doctor of osteopathy, an optometrist or an audiologist.

(11) “Physician” is defined in ORS 807.710.

(12) “SPE certificate” is a Skill Performance Evaluation certificate issued by the FMCSA pursuant to FMCSR § 391.49 to a person who demonstrates the ability to safely operate a CMV in spite of limb impairment or loss.

(13) “Waiver of Physical Disqualification” or “waiver” means a waiver issued by the Oregon Department of Transportation to a driver who does not meet the physical qualifications required for drivers of commercial motor vehicles as set forth in FMCSR § 391.41(b). A Waiver of Physical Disqualification only authorizes the holder to operate a commercial motor vehicle in intrastate commerce.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: ORS 807.040 & 807.100

**735-063-0050**

**Medical Standards for Drivers of Commercial Motor Vehicles**

(1) DMV adopts FMSCR sections 391.41 through 391.49 in effect on October 1, 2007 pertaining to physical qualifications and medical examination of drivers of commercial motor vehicles. Except as provided in section (2) of this rule, to qualify for a Class A, B, or C CDL or

commercial driver permit a person must obtain an approved medical certificate meeting the requirements of these federal regulations.

(2) DMV may issue a Class A, B, or C CDL or commercial driver permit to a person who does not meet all physical qualifications set forth in FMSCR §391.41(b) if the person is issued:

(a) A Waiver of Physical Disqualification for the disqualifying condition, under OAR 735-063-0070;

(b) An exemption for the disqualifying condition by the FMSCA pursuant to 49 USC sections 31136 and 31135, and 49 CFR sections 381.300 to 381.330; or

(c) An SPE certificate for the disqualifying condition issued by the FMSCA pursuant to 49 CFR §391.49.

(3) DMV will issue a restricted Class A, B or C CDL or commercial driver permit if the waiver, exemption or SPE certificate described in section (2) of this rule indicate any applicable restrictions, conditions or limitations for issuance of a commercial license.

(4) DMV will suspend a Class A, B or C CDL or commercial driver permit if a Waiver of Physical Disqualification is denied, not renewed or is revoked for any reason or for any length of time.

(5) DMV will suspend a Class A, B or C CDL or commercial driver permit if notified that FMCSA has revoked or not renewed the SPE certificate issued to the driver under the provisions of 49 CFR §391.49.

(6) DMV will suspend a Class A, B or C CDL or commercial driver permit if notified that FMCSA has revoked or not renewed an exemption to physical qualifications issued to a driver under the provisions of 49 U.S.C. sections 31135 and 31136(e) and FMCSR sections 381.300 to 381.330.

(7) DMV will suspend a Class A, B, or C CDL or commercial driver permit if notified by the Medical Determination Officer that the driver no longer meets the physical qualifications outlined in FMCSR § 391.41 (b).

(8) A person suspended under section (4), (5), or (6) of this rule may reinstate commercial driving privileges if the person obtains a medical certificate as described in section (1) of this rule or is reissued a waiver by DMV or an exemption or SPE certificate by FMCSA as described in section (2) of this rule.

(9) A person suspended under section (7) of this rule may reinstate commercial driving privileges if the person is determined by the Medical Determination Officer to meet the physical qualifications for a Class A, B or C CDL or commercial driver permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040 & 809.419

Stats. Implemented: ORS 807.040, 807.100 & 809.419

## **735-063-0060**

### **Approved Medical Certificates**

(1) DMV approves the following as medical certificates for use when driving a Class A, B, or C CMV within Oregon:

(a) Any medical certificate that complies with FMCSR sections 391.41 through 391.49. The medical certificate must state that in accordance with these federal regulations the person is qualified; or

(b) An Oregon School Bus Driver's Certificate or Oregon School Bus Driver's Permit, issued by the Oregon Department of Education, as provided in OAR 581-053-0006.

(2) If indicated on the certificate, the medical certificate described in section (1) of this rule must also be accompanied by a current:

- (a) Waiver of Physical Disqualification issued by DMV;
  - (b) SPE certificate issued by the FMSCA; or
  - (c) Exemption issued by the FMCSA.
- (3) The medical certificate must not be expired.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040  
Stats. Implemented: ORS 807.040, 807.100

### **735-063-0065**

#### **Medical Certificate Procedures**

(1) DMV will issue a Class A, B, or C CDL or commercial driver permit only to applicants who present an approved medical certificate as described in OAR 735-063-0060 and, if required, a Waiver of Physical Disqualification, an exemption or SPE certificate when applying for an original or renewal of a Class A, B, or C CDL or commercial driver permit.

(2) An applicant for a Class A, B, or C CDL or commercial driver permit used in interstate commerce must also certify on the application or renewal form that he or she meets all of the driver qualification requirements as required by FMSCR §383.71(a) and §383.71(c)(1).

(3) DMV may issue a Class C or Class C restricted driver license to a person who applies for the renewal of a Class A, B, or C CDL if the person does not present an approved medical certificate as required or fails to certify he or she meets the driver qualification requirements as required in subsections (1) and (2) of this rule. The lower class of license issued will be the class requested by the applicant.

(4) A driver who needs to replace a medical certificate because it is lost, mutilated, or destroyed may obtain a duplicate from the same source from which they obtained the original medical certificate.

(5) DMV is not responsible for any expenses an applicant may incur from the acquisition of an approved medical certificate or duplicate medical certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.040  
Stats. Implemented: ORS 807.040, 807.100 & 807.150

### **735-063-0070**

#### **Waiver of Physical Disqualification**

(1) Possession of a Waiver of Physical Disqualification issued by DMV to the holder of a CDL or commercial driver permit who only operates a CMV in intrastate commerce is subject to the procedures, conditions and requirements set forth in this rule.

(2) A driver of a CMV who is engaged only in intrastate commerce and who does not meet all physical qualification standards as outlined in FMCSR § 391.41(b) may make application to DMV for a Waiver of Physical Disqualification.

(a) An application for waiver must be accompanied by a completed waiver application form and:

(A) A current FMSCA medical examination report completed by a licensed physician, chiropractic physician, physician assistant or nurse practitioner. The report must show that notwithstanding the disqualifying condition, the applicant meets all other physical qualification standards as set forth in FMCSR § 391.41(b);

(B) Current medical information regarding the disqualifying condition from a treating medical specialist specializing in the assessment and treatment of the type of disqualifying condition for which the applicant is requesting a waiver; and

(C) If requested by DMV, a copy of the applicant's out-of-state driver record(s) if the applicant has held a driver license in another jurisdiction during the three year period preceding the date of application.

(b) DMV may require the applicant to provide additional information showing that the disqualifying condition does not impair the person's ability to safely operate a CMV in intrastate commerce.

(c) Failure to provide information as required by DMV will result in denial of the waiver as set forth in OAR 735-063-0075(3).

**(3)** An application for an original waiver or for renewal must be reviewed by the Medical Determination Officer who will make a recommendation to DMV whether to approve or deny the waiver.

(a) Reviews will be conducted using medical waiver guidelines. These are criteria maintained by the Medical Determination Officer and available from DMV.

(b) The Medical Determination Officer may request additional information from DMV or the applicant before making a recommendation.

**(4)** Records relating to an applicant or the holder of a current waiver may be reviewed at any time by DMV to determine if the person is or remains qualified to hold the waiver and is complying with the restrictions and conditions of the waiver. The review may include a recommendation from the Medical Determination Officer. DMV may use the information from these records or a recommendation from the Medical Determination Officer as a basis for denial of a waiver or for revocation of an existing waiver as specified in OAR 735-063-0075(4).

Records include but are not limited to:

- (a) Driving record;
- (b) Accident/conviction record; and
- (c) Medical records.

**(5)** If DMV has reason to believe the holder of a Waiver of Physical Disqualification is no longer qualified for the waiver, DMV:

(a) May immediately revoke the waiver as specified in OAR 735-063-0075;

(b) May request in writing that the holder submit any information requested by DMV in order for DMV to determine if the holder remains eligible for the waiver. The holder must submit any requested information to DMV within 60 days of the date the written request is mailed. Failure to submit the requested information will result in revocation of the waiver as set forth in OAR 735-063-0075(3). DMV may grant an additional 30 days if:

- (A) The person is seriously ill or injured and a physician requests an extension in writing;
- (B) The person is temporarily out of state and a written request is received from the person; or
- (C) The person can show that the information was requested from another party within the 60 day time period and the delay in submitting the information was caused by the other party.

**(6)** To be eligible for a Waiver of Physical Disqualification, a driver must:

- (a) Submit a completed waiver application and other information as may be required by DMV;
- (b) Qualify for commercial driving privileges or have a valid Oregon CDL or commercial driver permit;

(c) Not have driving privileges suspended, revoked, cancelled or withdrawn in Oregon or any other jurisdiction;

(d) Receive a recommendation for waiver approval from the Medical Determination Officer;  
(e) Not have a Waiver of Physical Disqualification that is currently denied or revoked as specified in OAR 735-063-0075(1) or OAR 735-063-0075(4).

(7) Any driver issued a waiver must comply with the following conditions:

(a) Notify DMV within 10 days of any change in the driver's physical condition pertaining to the need for a waiver or any other condition which may require a waiver or waiver modification;

(b) Notify DMV of all crashes, arrests or convictions involving the use of a motor vehicle within 30 days of the crash or within 10 days of the arrest or conviction;

(c) Notify DMV within 10 days of any suspension, cancellation, revocation or withdrawal of driving privileges in a jurisdiction other than Oregon;

(d) Notify DMV within 10 days of changing employers and provide the employer with a copy of the waiver;

(e) Carry a copy of the medical waiver and any listed waiver conditions at all times while operating a CMV and make the waiver and waiver conditions available to enforcement personnel upon request;

(f) Only operate a CMV in Oregon intrastate commerce; and

(g) Comply with all waiver conditions related to the disqualifying condition as noted on the Waiver of Physical Disqualification.

(8) The Oregon CDL or commercial driver permit of a waiver holder must have a "K" restriction limiting the driver to operating a CMV in intrastate commerce.

(a) DMV will notify waiver holders in writing of the requirement to have a CDL or commercial driver permit with a "K" restriction.

(b) Failure of the driver to add the "K" restriction within 60 days of the date of written notification will result in cancellation of the commercial driver license in accordance with ORS 807.010(1) and ORS 809.310(1). DMV is not responsible for any expenses a waiver holder may incur from the acquisition of a replacement license with the "K" restriction.

(9) The waiver is valid for a period not to exceed the expiration date of the driver's medical certificate.

(10) Incomplete waiver applications are invalid after 180 days and DMV will take no action to deny or approve the application. After this period, the person must reapply for a waiver in accordance with all of the requirements of this rule.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 807.040, 807.150, 807.010 & 809.310

## **735-063-0075**

### **Denial or Revocation of an Oregon Waiver of Physical Disqualification**

(1) A holder of a Waiver of Physical Disqualification who violates any of the requirements set forth in OAR 735-063-0070(7), in addition to any other actions authorized by law, will be subject to revocation of the waiver for up to 180 days upon DMV's determination of the driver's second violation of waiver conditions within the preceding 12 months.

(2) DMV will deny or revoke a Waiver of Physical Disqualification if DMV determines that the applicant or waiver holder does not qualify for the waiver under the requirements set for in OAR 735-063-0070(6).

(3) DMV will deny or revoke a Waiver of Physical Disqualification if the waiver holder fails to provide information requested under OAR 735-063-0070 within the required 60 day time period.

**(4)** DMV will deny or revoke a Waiver of Physical Disqualification if, as a result of a review conducted under OAR 735-063-0070(4), DMV determines the person no longer qualifies for the waiver.

Stat. Auth.: ORS 184.616, 184.619, 802.010  
Stats. Implemented: ORS 807.040, 807.150