



## PERMANENT ADMINISTRATIVE ORDER

### DMV 33-2020

CHAPTER 735  
DEPARTMENT OF TRANSPORTATION  
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

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#### RULES:

735-063-0220, 735-063-0290

AMEND: 735-063-0220

NOTICE FILED DATE: 09/24/2020

RULE SUMMARY: DMV amended this rule to provide for CDL-required excepted interstate and non-excepted intrastate commercial motor vehicle (CMV) operators to maintain medical qualification if they were medically qualified on or after March 1, 2020.

#### CHANGES TO RULE:

735-063-0220

Proof of Medical Qualification for a CDL or CLP ¶¶

(1) Proof of medical qualification for a person who certifies a driving type of non-excepted interstate is:¶¶

(a) A CDLIS record that indicates the person is medically qualified to operate a CMV in interstate commerce; or¶¶

(b) A valid unexpired Medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.43. When indicated on the certificate, the Medical Examiner's Certificate must be accompanied by one or both of the following:¶¶

(A) A valid unexpired notice of exemption issued by FMCSA under the provisions of 49 CFR 381.300 to 381.330.¶¶

(B) A valid unexpired SPE certificate issued by FMCSA under the provisions of 49 CFR 391.49.¶¶

(2) Proof of medical qualification for a person who certifies a driving type of excepted interstate or non-excepted intrastate is:¶¶

(a) The proof required under section (1)(a) of this rule; or¶¶

(b) A valid unexpired Medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.41. When indicated on the certificate, the Medical Examiner's Certificate must be accompanied by a valid unexpired Waiver of Physical Disqualification issued by DMV under the conditions described in OAR 735-063-0240.¶¶

(3) A Medical Examiner Certificate, notice of exemption, SPE certificate and a Waiver of Physical Disqualification is valid for up to two years.¶¶

(4) DMV may require a valid unexpired Medical Examiner's Certificate that conforms to the requirements of 49 CFR 391.43 be submitted showing it was issued after the date of a mandatory or non-mandatory report submitted on the driver that resulted in DMV taking action under the At-Risk Driver Program.¶

(5) For purposes of section (4) of this rule, when indicated on the Medical Examiner's Certificate, the certificate must be accompanied by one or more of the following: a notice of exemption, SPE certificate or a Waiver of Physical Disqualification.¶

(6) Notwithstanding section (2) of this rule, an individual certifying as excepted interstate or non-excepted intrastate who was medically qualified on or after March 1, 2020, retains medical qualification. In order to qualify under this section, an individual must have valid proof of medical qualification that was issued for a period of 90 days or longer. This section does not apply to an individual requiring a notice of exemption issued by FMCSA.

Statutory/Other Authority: ORS 184.619, ~~802.010, 807.040~~, 49 CFR ~~§381.300 - §381.330~~ and, 49 CFR ~~§391.41 - §391.49, 802.010, 807.040~~

Statutes/Other Implemented: ORS 807.040, 807.100

AMEND: 735-063-0290

NOTICE FILED DATE: 09/24/2020

RULE SUMMARY: DMV amended this rule to provide for full use of a Transportation Security Administration (TSA) exemption regarding expiration of TSA security threat assessments (STAs) for commercial driver license (CDL) holders with hazardous material endorsements (HME).

CHANGES TO RULE:

735-063-0290

#### Requirements for Issuance and Retention of a Hazardous Materials Endorsement ¶

- (1) To obtain, retain or renew a CDL with a hazardous materials endorsement, a person must be qualified. To qualify for a hazardous materials endorsement a person must:¶
  - (a) Qualify for commercial driving privileges or have a valid Oregon CDL.¶
  - (b) Pass a hazardous materials endorsement knowledge test for an original endorsement or a renewal.¶
  - (c) Pass a security threat assessment (security check) from the Transportation Security Administration (TSA) in accordance with 49 CFR Part 1572, including receipt by DMV of a notice from TSA showing the person does not pose a security threat. A person must pass a TSA security check:¶
    - (A) Within four years and nine months prior to the date DMV issues an original hazardous materials endorsement;¶
    - (B) At intervals of not more than five years from the date of the person's most recent TSA security check; and¶
    - (C) Any other time required by DMV.¶
  - (d) Pay all required fees, which include, but may not be limited to, any applicable issuance fee and hazardous materials knowledge test fee.¶
- (2) A person is no longer qualified for a hazardous materials endorsement if:¶
  - (a) DMV receives a notice of threat assessment from TSA requiring cancellation of the hazardous materials endorsement;¶
  - (b) DMV receives notice from TSA indicating the person did not pass the security threat assessment; or¶
  - (c) The person fails to complete and pass a TSA security check as described in section (1) of this rule.¶
- (3) If DMV determines a person is no longer qualified for a hazardous materials endorsement under this rule, DMV will cancel the person's commercial driving privileges. Upon cancellation the person must immediately surrender to DMV the CDL showing the hazardous materials endorsement. If the person otherwise qualifies and pays a replacement fee, DMV will issue a CDL without a hazardous materials endorsement or a class C non-commercial driver license.¶
- (4) The person may request an administrative review of the cancellation of the person's CDL. The issues for the administrative review are limited to whether:¶
  - (a) When required, the person completed and passed a TSA security check as described in section (1) of this rule.¶
  - (b) DMV received a notice from TSA showing the person does not qualify for a hazardous materials endorsement.¶
  - (c) The person is the same person named on the notice.¶
- (5) An applicant for an Oregon CDL with a hazardous materials endorsement who presents a valid CDL with a hazardous materials endorsement issued by another state must still qualify for an original hazardous materials endorsement as set forth in section (1) of this rule.¶
- (6) If the person passes a TSA security check within one year from the date the person's CDL with a hazardous materials endorsement was canceled under section (2) of this rule and otherwise qualifies for the CDL and endorsement, DMV will reissue the CDL with a hazardous materials endorsement after payment of a replacement fee. If the cancellation has been in effect for more than one year, the person must reapply for the hazardous materials endorsement as an original endorsement and must take all required tests, pay all required fees and pass the required TSA security check.¶

(7) Notwithstanding section (1)(c) and (2)(c) of this rule, a person with a TSA security check that expires between March 1, 2020, and October 29, 2020, receives a single extended TSA security check of 180 days.

Statutory/Other Authority: ~~49 USC sec. 5103a~~, ORS ~~184.616~~, 184.619, 802.010, 807.173, 49 USC sec. 5103a

Statutes/Other Implemented: ORS 807.170, 807.173, 807.350, 809.310