DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Parts 1325 and 1327

[Docket No. NHTSA–00–7551]

RIN 2127–AG68

Procedures for Transition to New National Driver Register

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces that changes proposed in a notice of proposed rulemaking (NPRM) to NHTSA's National Driver Register (NDR) regulations will be adopted. These proposed changes are being adopted without change. Since all States now are participating in the new Problem Driver Pointer System (PDPS), and the transition from the old NDR to the new PDPS has been completed, the transition procedures outlined in the NPRM are no longer needed and are now removed.

DATES: This final rule becomes effective on August 24, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, National Driver Register (NTS–24), 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–4800 or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law (NCC–30), 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: The National Driver Register (NDR) functions as a central, computerized index of State reports on drivers whose driving privileges have been denied, cancelled, suspended or revoked, for cause, or who have been convicted of certain serious traffic violations. It was designed to address the problem that arises when traffic law violators, after losing their license in one State, attempt to obtain a license in another State.

States participate by sending to the NDR records regarding individuals who have been subject to covered licensing actions and convictions, and by querying the NDR before they issue licenses to applicants. In this way, States can avoid issuing licenses to persons whose driving records contain violations or licensing actions that should keep them off the road. Originally established by law in 1960 (Pub. L. 86–660), the NDR was made a part of the Highway Safety Act of 1966 (Pub. L. 89–564) and has been operated since that time by the National Highway Traffic Safety Administration (NHTSA).

The NDR Act of 1982 (Pub. L. 97–364) called for the establishment of an improved NDR. The new NDR system (the Problem Driver Pointer System, or PDPS) differs from the old NDR system in that it no longer maintains full substantive records on adverse actions taken against problem drivers. Instead, it maintains only identification data on problem drivers and ''points'' to the State of record where the substantive adverse action data can be obtained. In addition, the new PDPS is fully automated and enables State driver licensing officials to determine virtually instantly whether another State has taken an adverse action or convicted a driver license applicant of a serious traffic offense.

Part 1325—Transition Procedures

On July 11, 1985 (50 FR 28191), NHTSA established a regulation on the Procedures for the Transition from the Old to the New PDPS NDR System (23 CFR part 1325). The regulation established procedures for the orderly transition from the NDR system established in Pub. L. 86–660 as amended, to the NDR system established in Pub. L. 97–364. The regulation provided that its purpose was to ensure that participating States understood their rights and obligations during the transition period, which was to last until such time as all States that are participating in the NDR are doing so under the PDPS.

Part 1327—Procedures for Participating

On August 20, 1991 (56 FR 41394), NHTSA established a regulation on the Procedures for Participating in and Receiving Data from the NDR PDPS (23 CFR part 1327). The regulation established procedures for States to participate in the NDR PDPS, and for other authorized parties to receive information from the NDR. It also established procedures for States to notify NHTSA of their intention to be bound by the requirements of the PDPS NDR system and for States to notify NHTSA in the event it becomes necessary to withdraw from participation.

The procedures provided that only States that have been certified as ''participating States'' may participate in the NDR after the transition period ends (no later than April 30, 1995). They provided, however, that States that were not certified as ''participating States'' by April 30, 1995, that wished to continue participating in the NDR, could request an extension of time.

Notice of Proposed Rulemaking

On April, 17, 1996, NHTSA published a notice of proposed rulemaking (NPRM) in the **Federal Register**, 61 FR 16729, proposing to remove the agency's regulation on procedures for transition to the new PDPS NDR. At the time the NPRM was published, all 50 States and the District of Columbia had notified NHTSA of their intention to be bound by the requirements of the PDPS NDR system. In addition, 38 States had completed their transition to the PDPS, and the remaining States had requested or been granted extensions of time. In the NPRM, the agency indicated that Part 1325 of 23 CFR would no longer be necessary and that section 1327.4 of 23 CFR would require modification once the transition from the old NDR system to the new system had been completed, and the agency proposed to make those changes. The NPRM provided a 45-day comment period for interested parties to present data, views, and arguments on the proposed action. No comments were received.

Current Status on Notification and NDR Participation

At this time, all 50 States and the District of Columbia now are participating in the NDR under the PDPS, in accordance with Part 1327. Accordingly, the transition to PDPS has been completed, and the transition regulations no longer are needed. Part 1325 of 23 CFR is hereby rescinded and the amendment to 23 CFR 1327.4 is made final.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribunal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rule is not considered a significant regulatory action under section 3(f) of the Executive Order 12866. Consequently, this rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action also is not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Because the economic impacts of this rule are so minimal, no further regulatory evaluation is necessary.

Executive Order 13132

We have analyzed this rule in accordance with Executive Order 13132 (''Federalism''). We have determined that this rule does not have sufficient Federalism impacts to warrant the preparation of a federalism consultation.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. It also does not involve decisions based on health risks that disproportionately affect children.

Executive Order 12778

Pursuant to Executive Order 12778, ''Civil Justice Reform,'' we have considered whether this rule will have any retroactive effect. This rule does not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it does preempt a state regulation that is in actual conflict with the federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the federal statute.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certify that this proposal will not have a significant economic impact on a substantial number of small entities. The rule does not impose or rescind any requirements for anyone. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

National Environmental Policy Act

We have analyzed this action for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not propose any new information collection requirements.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This rule does not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. Further, it will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects

23 CFR Part 1325

Highway safety, Intergovernmental relations.

23 CFR Part 1327

Highway safety, Intergovernmental relations, Reporting and recordkeeping requirements.

Under the authority of 49 CFR part 1.50, the Deputy Administrator of the National Highway Traffic Safety Administration amends title 23 of the Code of Federal Regulations, Chapter III, as follows:

PART 1325—[REMOVED]

Part 1325 is removed.

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

1. The authority citation for part 1327 continues to read as follows:

Authority: Pub.L. 97–364, 96 Stat. 1740, as amended (49 U.S.C. 30301, *et seq.*); delegation of authority at 49 CFR 1.50.

2. Section 1327.4 is revised to read as follows:

§ 1327.4 Certification, termination and reinstatement procedures.

(a) *Certification requirement.* Only States that have been certified by NHTSA as participating States under PDPS may participate in the NDR. NHTSA will remove all records on file and will not accept any inquiries or reports from a State that has not been certified as a participating State.

(b) *Termination or cancellation.* (1) If a State finds it necessary to discontinue participation, the chief driver licensing official of the participating State shall notify NHTSA in writing, providing the reason for terminating its participation.

(2) The effective date of termination will be no less than 30 days after notification of termination.

(3) NHTSA will notify any participating State that changes its operations such that it no longer meets statutory and regulatory requirements, that its certification to participate in the NDR will be withdrawn if it does not come back into compliance within 30 days from the date of notification.

(4) If a participating State does not come back into compliance with statutory and regulatory requirements within the 30-day period, NHTSA will send a letter to the chief driver licensing official cancelling its certification to participate in the NDR.

(5) NHTSA will remove all records on file and will not accept any inquiries or reports from a State whose participation in the NDR has been terminated or cancelled.

(6) To be reinstated as a participating State after being terminated or cancelled, the chief driver licensing official shall follow the notification procedures in paragraphs (c)(1) and (3) of this section and must be re-certified by NHTSA as a participating State under PDPS, upon a determination by NHTSA that the State complies with the statutory and regulatory requirements for participation, in accordance with paragraphs (c)(2) and (4) of this section.

(c) *Reinstatement.* (1) The chief driver licensing official of a State that wishes to be reinstated as a participating State in the NDR under the PDPS, shall send a letter to NHTSA certifying that the State wishes to be reinstated as a participating State and that it intends to be bound by the requirements of section 205 of the NDR Act of 1982 and § 1327.5 of this part. It shall also describe the changes necessary to meet the statutory and regulatory requirements of PDPS.

(2) Within 20 days after receipt of the State's notification, NHTSA will acknowledge receipt of the State's certification to be reinstated.

(3) The chief driver licensing official of a State that has notified NHTSA of its intention to be reinstated as a participating State will, at such time as it has completed all changes necessary to meet the statutory and regulatory requirements of PDPS, certify this fact to the agency.

(4) Upon receipt, review and approval of certification from the State, NHTSA will recertify the State as a participating State under PDPS.

Issued on: July 18, 2000.

Rosalyn G. Millman,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 00–18574 Filed 7–24–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–070]

RIN 2115–AE47

Drawbridge Operation Regulations: Westchester Creek, Bronx River, and Hutchinson River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules for three New York City bridges; the Bruckner Boulevard/Unionport Bridge, at mile 1.7, across Westchester Creek at the Bronx, the Bruckner Boulevard/Eastern Boulevard Bridge, mile 1.1, across the Bronx River at the Bronx, and the Hutchinson River Parkway Bridge, mile 0.9, across the Hutchinson River, at the Bronx, all in New York. The bridge owner asked the Coast Guard to change the regulations to require a two-hour advance notice for openings. This action is expected to relieve the owner of the bridge from the requirement to crew each bridge at all times by using a roving crew of drawtenders and still meet the reasonable needs of navigation.

DATES: This rule is effective August 24, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–99–029) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 25, 2000, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Westchester Creek, Bronx River and Hutchinson River, New York, in the **Federal Register** (65 FR 24162). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

Bruckner Boulevard/Eastern Boulevard Bridge

The Bruckner Boulevard/Eastern Boulevard Bridge, mile 1.1, across the Bronx River at the Bronx, has a vertical clearance of 27 feet at mean high water and 34 feet at mean low water. The existing operating regulations for the Bruckner Boulevard/Eastern Boulevard Bridge in 33 CFR 117.771(a) require the bridge to open on signal if at least a four-hour advance notice is given to the NYCDOT Radio Hotline, or NYCDOT Bridge Operations Office. From 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, the bridge need not open for vessel traffic.

Hutchinson River Parkway Bridge

The Hutchinson River Parkway Bridge, mile 0.9, across the Hutchinson River at the Bronx, has a vertical clearance of 30 feet at mean high water and 38 feet at mean low water. The existing operating regulations for the Hutchinson River Parkway Bridge in 33 CFR 117.793(b) require the bridge to open on signal if at least a six-hour advance notice is given.

Bruckner Boulevard/Unionport Bridge

The Bruckner Boulevard/Unionport Bridge, at mile 1.7, across Westchester Creek at the Bronx, has a vertical clearance of 14 feet at mean high water and 21 feet at mean low water. The existing operating regulations for the Bruckner Boulevard Bridge in 33 CFR 117.815 require the bridge to open on