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(3) The apportionment of the State under §104(b)(4).

(f)(1) If any funds are transferred under §1275.6 of this part to the apportionment of a State under Section 402 for a fiscal year, an amount, determined under paragraph (e)(2) of this section, of obligation authority will be distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under Section 402.

(2) The amount of obligation authority referred to in paragraph (e)(1) of this section shall be determined by multiplying:

(i) The amount of funds transferred under §1275.6 of this Part to the apportionment of the State under Section 402 for the fiscal year; by

(ii) The ratio that:

(A) The amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

(B) The total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(g) Notwithstanding any other provision of law, no limitation on the total obligations for highway safety programs under Section 402 shall apply to funds transferred under §1275.6 to the

apportionment of a State under such section.

[63 FR 55802, Oct. 19, 1998, as amended at 65 FR 59124, Oct. 4, 2000]

§ 1275.8 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 164 and this part, based on NHTSA's and FHWA's preliminary review of its certification, will be advised of the funds expected to be transferred under §1275.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with 23 U.S.C. 164 and this part, based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the appropriate National Highway Traffic Safety Administration Regional office.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 164 and this part, based on NHTSA's and FHWA's final determination, will receive notice of the funds being transferred under §1275.6 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

CHAPTER III—NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

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PART 1313 [RESERVED]

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

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APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS, WITHDRAWALS, AND CONVICTIONS OF MOTOR VEHICLE-RELATED OFFENSES

APPENDIX B TO PART 1327—OMB CLEARANCE

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.

SOURCE: 56 FR 41403, Aug. 20, 1991, unless otherwise noted.

§ 1327.1 Scope.

This part provides procedures for States to participate in the National Driver Register (NDR) Problem Driver Pointer System (PDPS) and for other authorized parties to receive information from the NDR. It includes, in accordance with section 204(c) of the NDR Act of 1982 (Pub. L. 97-364), procedures for a State to notify the Secretary of Transportation of its intention to be bound by the requirements of section 205 of the Act (*i.e.*, requirements for reporting by chief driver licensing officials) and for a State to notify the Secretary in the event it becomes necessary to withdraw from participation. The rule also contains the conditions for becoming a participating State as well as conditions and procedures for other authorized users of the NDR.

§ 1327.2 Purpose.

The purpose of this part is to implement the NDR Act of 1982, as amended.

§ 1327.3 Definitions.

(a) *Any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve* includes a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard.

(b) *Driver history record* means a detailed description of an individual's driver record, used in the American Association of Motor Vehicle Administrators' Commercial Driver's License Information System (CDLIS).

(c) *Driver improvement purposes* means information requests made by chief driver licensing officials in connection with the control and rehabilitation of drivers who are, based on their records, suspected of being or known to be problem drivers.

(d) *Driver license abstract* means the complete driver history of a driver's convictions, revocations, suspensions, denials, cancellations, accidents and interactions with the driver control and driver improvement authorities. Also known as Motor Vehicle Record (MVR) or Transcript.

(e) *Driver licensing purposes* means information requests made by chief driver licensing officials to determine if individuals applying for original, renewal, temporary, or duplicate licenses have had their driving privileges withdrawn in some other State.

(f) *Driver status response* means a response which indicates whether a driver currently holds a valid license.

(g) *Employers or prospective employers of motor vehicle operators* means persons that hire one or more individuals to operate motor vehicles on a regular basis during their normal course of employment.

(h) *For cause* as used in § 1327.5(a) means that an adverse action taken by a State against an individual was based on a violation listed in Appendix A, Part I, an Abridged Listing of the American Association of Motor Vehicle Administrators (AAMVA) Violations Exchange Code, which is used by the NDR for recording license denials and withdrawals.

(i) *Fully electronic register system* means an NDR system in which all States that are participating in the

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NDR have been certified by the agency as participating States.

(j) *Interactive communication* means an active two-way computer connection which allows requesters to receive a response from the NDR almost immediately.

(k) *Match* means the occurrence when the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Probable Identification.

(l) *Non-minimum age driver license applicant* means a driver license applicant who is past the minimum age to apply for a license in the State making an NDR inquiry.

(m) *Non-PDPS State* means a State which operates under the old NDR by submitting complete substantive adverse driver licensing data to the NDR.

(n) *Participating State* means a State that has notified the agency of its intention to participate in the PDPS and has been certified by the agency as being in compliance with the requirements of Section 30304 of Title 49, United States Code and §1327.5 of this part.

(o) Personnel security investigation means an investigation of an individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information under the authority of Executive Order No. 12968, or any successor Executive order, or for Federal employment in a position requiring access to national security information under the authority of Executive Order No. 10450, or any successor Executive order.

(p) *Pointer record* means a report containing the following data:

(1) The legal name, date of birth (including month, day, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(2) The name of the State transmitting such information; and

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the

operator's social security account number).

(q) *Probable identification* means the occurrence when the personal identifying information in an inquiry compares with the identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Match.

(r) *Problem Driver Pointer System (PDPS)* means a system whereby the NDR causes information regarding the motor vehicle driving records of individuals to be exchanged between the State which took adverse action against a driver (State of Record) and the State requesting the information (State of Inquiry).

(s) *PDPS State* means a State which participates in the PDPS by submitting pointer records for inclusion in the NDR file and by providing information to States of Inquiry as a State of Record.

(t) *Rapid Response System* means an interactive inquiry capability of the NDR system used by non-PDPS States.

(u) *Remote job entry* means an automated communication method in which information is transmitted in batches (usually a large number of records) and responses are also transmitted in batches, all within a 24-hour period.

(v) *State of inquiry* means the State submitting an inquiry to the NDR to determine if it contains information regarding a driver license applicant.

(w) *State of record* means the State which took an adverse action against a driver and transmitted identification data regarding the driver to the NDR, in accordance with §1327.5(a) of this part.

(x) *Substantive adverse action data, substantive adverse driver licensing data and substantive data* mean data which give the details regarding a State's revocation, suspension, denial or cancellation of a driver's license, or the conviction of a driver, such as date, reason, eligible/restoration date, etc.

(y) *Transportation safety purposes* means information requests submitted on behalf of other parties authorized by the NDR Act of 1982, as amended, to receive NDR information.

(z) *Transition period* means the period which began on July 11, 1985 and will continue until a fully electronic register system is established, but not later than April 30, 1995.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 70 FR 43755, July 29, 2005; 70 FR 52298, Sept. 2, 2005]

§ 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 require-

ments 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 notifying NHTSA that the State wishes to be reinstated as a participating State and certifying that the State intends to be bound by the requirements of Section 30304 of Title 49, United States Code and §1327.5. The letter shall also describe the changes necessary to meet the statutory and regulatory requirements of PDPS.

(2) NHTSA will acknowledge receipt of the State's notification within 20 days after receipt.

(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.

(d) *New notification.* (1) NHTSA may, in its discretion, require in writing that a participating State submit a new notification, certifying that it intends to be bound by the requirements of Section 30304 of Title 49, United States Code and §1327.5. The agency will exercise its discretion to require this notification when statutory changes have altered a participating State's reporting or inquiry requirements under Section 30304 of Title 49, United States Code.

(2) After receiving a written request from NHTSA under paragraph (d)(1) of this section, a participating State will have 90 days to submit the requested notification. If a participating State does not submit the requested notification within the 90-day time period, NHTSA will send a letter to the chief driver licensing official of a State canceling its status as a participating State.

[65 FR 45716, July 25, 2000, as amended at 70 FR 43755, July 29, 2005]

§ 1327.5 Conditions for becoming a participating State.

(a) *Reporting requirements.* (1) The chief driver licensing official in each participating State shall transmit to the NDR a report regarding any individual—

(i) Who is denied a motor vehicle operator's license by such State for cause;

(ii) Whose motor vehicle operator's license is canceled, revoked, or suspended by such State for cause; or

(iii) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

(2) A report shall not be transmitted by the chief driver licensing official of a participating State, regarding an individual, unless that individual has had his or her motor vehicle operator's license denied, canceled, revoked, or suspended for cause as represented by the codes in appendix A, part I, of this part, or been convicted of a motor vehicle-related offense as represented by the codes in appendix A, part II, of this part. Unless the report transmitted to the NDR is based on these codes, NHTSA will contact the participating State responsible for the record and request its removal from the NDR.

(3) Any report regarding any individual which is transmitted by a chief driver licensing official pursuant to this requirement shall contain the following data:

(i) The legal name, date of birth (including day, month, and year), sex,

(and if the State collects such data) height, weight, and color of eyes;

(ii) The name of the State transmitting such information; and

(iii) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(iv) Any report concerning an occurrence identified in paragraph (a)(1) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(4) These records, defined as pointer records, shall be transmitted by the chief driver licensing official to the NDR not later than 31 days after the adverse action information is received by the motor vehicle department or 6 months after the date on which such State becomes a participating State.

(5) No State will be required to report information concerning an occurrence which happened before the two-year period preceding the date on which the State becomes a participating State.

(b) *State of inquiry function for driver licensing and driver improvement purposes.* (1) The chief driver licensing official of a participating State shall submit an inquiry to both the NDR and the Commercial Driver's License Information System for each driver license applicant before issuing a license to that applicant. The issuance of a license includes but is not limited to any original, renewal, temporary, or duplicate license that results in a grant or extension of driving privileges in a participating State.

(2) The chief driver licensing official of a participating State may submit inquiries for other driver licensing and driver improvement purposes.

(c) *State of inquiry function for transportation safety purposes (on behalf of other authorized users).* The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from the

following groups which are authorized to receive information from the NDR file through participating States:

(1) National Transportation Safety Board (NTSB) and Federal Highway Administration (FHWA) for accident investigation purposes. The Chairman of the NTSB and/or the Administrator of the FHWA shall submit requests for NDR searches in writing through the participating State with which previous arrangements have been made to process these requests. The chief driver licensing official shall provide to the requesting agency the NDR response indicating either Probable Identification (match) or No Record Found. In the case of a probable identification, the State of Record will also be identified in the response so that the NTSB or FHWA may obtain additional information regarding the individual's driving record.

(2) Employers and Prospective Employers of individuals licensed to drive a motor vehicle in the State (including Federal Agencies); Federal Aviation Administration regarding any individual who has applied for or received an airman's certificate; the Federal Railroad Administration and employers/prospective employers regarding individuals who are employed or seeking employment as railroad locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46 of the U.S. Code, or a merchant mariner's document under section 7302 of that title, or regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve. Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

(i) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the authorized user if the individual first consented to the search in writing. Any request to the chief driver li-

censing official and any written consent by the individual shall:

(A) State that NDR records are to be released;

(B) Specifically state who is authorized to receive the records;

(C) Be signed and dated by the individual or the individual's legal representative;

(D) Specifically state that the authorization is valid for only one search of the NDR; and

(E) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(ii) Any request made by an authorized user may include, in lieu of the actual information described in paragraphs (c)(2)(i) (C) through (E) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid for only one search of the NDR, and specifically stated that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(iii) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the authorized user may obtain additional information regarding the individual's driving record.

(3) The head of a Federal department or agency that issues motor vehicle operator's licenses about an individual applicant for a motor vehicle operator's license from such department or agency. The head of the department or agency may request NDR information

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through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator's license for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;

(B) The name of the agency transmitting such information; and

(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

(4) Individuals who wish to learn what information about themselves, if any, is in the NDR file, or whether and to whom such information has been disclosed.

(i) Upon receiving a request for an NDR search from an individual for information concerning himself or herself, the chief driver licensing official shall inform the individual of the procedure for conducting such a search and provide the individual a request form which, when properly completed,

will be forwarded to the NDR either by the chief driver licensing official or by the individual.

(ii) The request form provided by the chief driver licensing official to the individual must provide for the following:

(A) Full legal name;

(B) Other names used (nicknames, professional name, maiden name, etc.);

(C) Month, day and year of birth;

(D) Sex;

(E) Height;

(F) Weight;

(G) Color of eyes;

(H) Social Security Number (SSN) and/or driver license number (provision of SSN is voluntary);

(I) Individual's full address;

(J) Home and office telephone number (provision of telephone number is voluntary);

(K) Signature;

(L) Proof of identification—Acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State; and

(M) Notarization—This is required only if the individual chooses to mail the request directly to the NDR.

(iii) Upon receipt of the individual's request for a NDR file check, NHTSA will search its computer file and mail the results (*i.e.*, notification of no record found or copies of any records found) directly to the individual.

(iv) The chief driver licensing official shall advise the requesting individual to contact the Chief, National Driver Register by mail or telephone for guidance regarding the procedure for alteration or correction of NDR-maintained records in the event he or she believes they are incorrect.

(d) *Personnel security investigations.* The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from individuals subject to personnel security investigations and from Federal departments or agencies that are authorized to perform personnel security investigations. These authorized users may receive information from the NDR file through participating States.

(1) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the Federal department or agency if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

(i) State that NDR records are to be released;

(ii) Specifically state who is authorized to receive the records;

(iii) Be signed and dated by the individual or individual's legal representative;

(iv) Specifically state that the authorization is valid only for the duration of the personnel security investigation; and

(v) Specifically state that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(2) Any request made by a Federal department or agency may include, in lieu of the actual information described in paragraphs (d)(1)(iii) through (v) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid only for the duration of the personnel security investigation, and specifically stated that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(3) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the Federal department or agency may obtain additional information regarding the individual's driving record.

(e) *State of record functions.* The chief driver licensing official of a participating State shall implement the necessary computer system and procedures to respond to requests for driver record information. When a request to the NDR results in a match, the chief

driver licensing official of a participating State shall also:

(1) Provide a driver status response interactively to the State of Inquiry or the NDR upon receipt of a request for this response from the NDR;

(2) Provide a Driver History Record from its file to the State of Inquiry upon receipt of a request for this record from the State of Inquiry; and

(3) Forward a driver license abstract (full motor vehicle record) to the State of Inquiry upon receipt of a request for this record either from the NDR or directly from the State of Inquiry, and to other authorized users upon receipt of a request directly from the user.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 64 FR 19271, Apr. 20, 1999; 70 FR 43755, July 29, 2005; 70 FR 52299, Sept. 2, 2005; 71 FR 19826, Apr. 18, 2006]

§ 1327.6 Conditions and procedures for other authorized users of the NDR.

(a) *NTSB and FHWA.* To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been established, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) *Federal departments or agencies that issue motor vehicle operator's licenses.* To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator's licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator's licenses may also submit a request for an NDR file check to the NDR directly, in accordance

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with procedures established by the NDR for that purpose.

(c) *Employers or prospective employers of motor vehicle operators (including Federal Agencies)*. (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) *Federal Aviation Administration*. (1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the airman concerned before using the information as the basis of any action against the individual.

(e) *Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators*. (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the

State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) *U.S. Coast Guard*. (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) *Air carriers*. (1) To initiate an NDR file check, the individual seeking employment as a pilot with an air carrier shall follow the procedures specified in § 1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104-264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should

obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(h) *Federal departments or agencies conducting personnel security investigations.* (1) To initiate an NDR file check, an individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order shall follow the procedures specified in § 1327.7

(2) Upon receipt of the NDR information, the Federal department or agency should make information from the State of Record available to the individual for review and comment.

(3) In the case of a match (probable identification), the Federal department or agency conducting the personnel security investigation should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis for any action against the individual.

(4) A Federal department or agency that receives information about an individual under this section may use such information only for purposes of the authorized investigation and only in accordance with applicable law.

(i) *Third parties.* If a third party is used by any of the above authorized users to request the NDR check, both the individual concerned and an authorized representative of the authorized user organization shall sign a written consent authorizing the third party to act in this role. The written consent must:

(1) State that NDR records are to be released;

(2) State as specifically as possible who is authorized to request the records, and that such party is not authorized to receive NDR information;

(3) Be signed and dated by the individual (or legal representative as ap-

propriate) and an authorized representative of the authorized user organization;

(4) Specifically state that the request authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy. The third party may not, however, receive the NDR response to a file search.

(j) *Individuals.* (1) When a check of the NDR is desired by any individual in order to determine whether the NDR is disclosing any data regarding him or her or the accuracy of such data, or to obtain a copy of the data regarding him or her, the individual shall submit his or her request to a participating State in accordance with the procedures established by that State for this purpose.

(2) The individual will be asked to provide the following information to the chief driver licensing official in order to establish positive identification:

- (i) Full legal name;
- (ii) Other names used (nickname, professional name, maiden name, etc.);
- (iii) Month, day and year of birth;
- (iv) Sex;
- (v) Height;
- (vi) Weight;
- (vii) Color of eyes;
- (viii) Driver license number and/or Social Security Number (SSN) (provision of SSN is optional);
- (ix) Full address;
- (x) Signature;
- (xi) Proof of identification (acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State); and
- (xii) Notarization (this is required only if the individual chooses to mail the request directly to the NDR).

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(3) Individuals are authorized also, under the Privacy Act of 1974, to request such information directly from the NDR.

(4) Individuals seeking to correct an NDR-maintained record should address their request to the chief of the National Driver Register. When any information contained in the Register is confirmed by the State of Record to be in error, the NDR will correct the record accordingly and advise all previous recipients of the information that a correction has been made.

[56 FR 41403, Aug. 20, 1991; 56 FR 57255, 57374, Nov. 8, 1991; 62 FR 27195, May 19, 1997; 62 FR 63657, Dec. 2, 1997; 63 FR 153, Jan. 5, 1998; 64 FR 19272, Apr. 20, 1999; 70 FR 52299, Sept. 2, 2005]

§ 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as pilot with an air carrier; or an individual subject to a personnel security investigation; shall either:

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose; or

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.

(d) The request for an NDR file check or the written consent, whichever is used, must:

(1) State that the NDR records are to be released;

(2) State as specifically as possible who is authorized to receive the records;

(3) Be signed and dated by the individual (or the individual's legal representative as appropriate);

(4) Specifically state that the authorization is valid for only one search of the NDR (or in the case of a personnel security investigation state that the authorization is valid only for the duration of the investigation); and

(5) Except for inquiries concerning personnel security investigations, specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

[64 FR 19273, Apr. 20, 1999, as amended at 70 FR 52299, Sept. 2, 2005]

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS, WITHDRAWALS, AND CONVICTIONS OF MOTOR VEHICLE-RELATED OFFENSES

Code

PART I—FOR CAUSE WITHDRAWALS

- A04 Driving under the influence of alcohol with BAC at or over .04
A08 Driving under the influence of alcohol with BAC at or over .08
A10 Driving under the influence of alcohol with BAC at or over .10
A11 Driving under the influence of alcohol with BAC at or over_(detail field required)

- A12 Refused to submit to test for alcohol—Implied Consent Law
- A20 Driving under the influence of alcohol or drugs
- A21 Driving under the influence of alcohol
- A22 Driving under the influence of drugs
- A23 Driving under the influence of alcohol and drugs
- A24 Driving under the influence of medication not intended to intoxicate
- A25 Driving while impaired
- A26 Drinking alcohol while operating a vehicle
- A31 Illegal possession of alcohol
- A33 Illegal possession of drugs (controlled substances)
- A35 Possession of open alcohol container
- A41 Driver violation of ignition interlock or immobilization device
- A50 Motor vehicle used in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance
- A60 Underage Convicted of Drinking and Driving at .02 or higher BAC
- A61 Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC
- A90 Administrative Per Se for .10 BAC
- A94 Administrative Per Se for .04 BAC
- A98 Administrative Per Se for .08 BAC
- B01 Hit and run—failure to stop and render aid after accident
- B02 Hit and run—failure to stop and render aid after accident—Fatal accident
- B03 Hit and run—failure to stop and render aid after accident—Personal injury accident
- B04 Hit and run—failure to stop and render aid after accident—Property damage accident
- B05 Leaving accident scene before police arrive
- B06 Leaving accident scene before police arrive—Fatal accident
- B07 Leaving accident scene before police arrive—Personal injury accident
- B08 Leaving accident scene before police arrive—Property damage accident
- B14 Failure to reveal identity after fatal or personal injury accident
- B19 Driving while out of service order is in effect and transporting 16 or more passengers including the driver and/or transporting hazardous materials that require a placard
- B20 Driving while license withdrawn
- B21 Driving while license barred
- B22 Driving while license canceled
- B23 Driving while license denied
- B24 Driving while license disqualified
- B25 Driving while license revoked
- B26 Driving while license suspended
- B27 General, driving while an out of service order is in effect (for violations not covered by B19)
- B41 Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID
- B51 Expired or no driver license (includes DL, CDL, and Instruction Permit)
- B56 Driving a CMV without obtaining a CDL
- B63 Failed to file future proof of financial responsibility
- B91 Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit)
- D02 Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit)
- D06 Misrepresentation of identity or other facts to obtain alcohol
- D07 Possess multiple driver licenses (includes DL, CDL, and Instruction Permit)
- D16 Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit)
- D27 Violate limited license conditions
- D29 Violate restrictions of driver license (includes DL, CDL, and Instruction Permit)
- D35 Failure to comply with financial responsibility law
- D38 Failure to post security or obtain release from liability
- D39 Unsatisfied judgment
- D45 Failure to appear for trial or court appearance
- D53 Failure to make required payment of fine and costs
- D56 Failure to answer a citation, pay fines, penalties and/or costs related to the original violation
- D72 Inability to control vehicle
- D74 Operating a motor vehicle improperly because of drowsiness
- D75 Operating a motor vehicle improperly due to physical or mental disability
- D78 Perjury about the operation of a motor vehicle
- E03 Operating without HAZMAT safety equipment as required by law
- F02 Child or youth restraint not used properly as required
- F03 Motorcycle safety equipment not used properly as required
- F04 Seat belt not used properly as required
- F05 Carrying unsecured passengers in open area of vehicle
- F06 Improper operation of or riding on a motorcycle
- M09 Failure to obey railroad crossing restrictions
- M10 For all drivers, failure to obey a traffic control device or the directions of an enforcement official at a railroad-highway grade crossing
- M20 For drivers who are not required to always stop, failure to slow down at a railroad-highway grade crossing and check that tracks are clear of approaching train

- M21 For drivers who are not required to always stop, failure to stop before reaching tracks at a railroad-highway grade crossing when the tracks are not clear
- M22 For drivers who are always required to stop, failure to stop as required before driving onto railroad-highway grade crossing
- M23 For all drivers, failing to have sufficient space to drive completely through the railroad-highway grade crossing without stopping
- M24 For all drivers, failing to negotiate a railroad-highway grade crossing because of insufficient undercarriage clearance
- M80 Reckless, careless, or negligent driving
- M81 Careless driving
- M82 Inattentive driving
- M83 Negligent driving
- M84 Reckless driving
- S01 01–05 > Speed limit (detail optional)
- S06 06–10 > Speed limit (detail optional)
- S15 Speeding 15 mph or more above speed limit (detail optional)
- S16 16–20 > Speed limit (detail optional)
- S21 21–25 > Speed limit (detail optional)
- S26 26–30 > Speed limit (detail optional)
- S31 31–35 > Speed limit (detail optional)
- S36 36–40 > Speed limit (detail optional)
- S41 41+ > Speed limit (detail optional)
- S51 01–10 > Speed limit (detail optional)
- S71 21–30 > Speed limit (detail optional)
- S81 31–40 > Speed limit (detail optional)
- S91 41+ > Speed limit (detail optional)
- S92 Speeding—Speed limit and actual speed (detail required)
- S93 Speeding
- S94 *Prima Facie* speed violation or driving too fast for conditions
- S95 Speed contest (racing) on road open to traffic
- S97 Operating at erratic or suddenly changing speeds
- U01 Fleeing or evading police or roadblock
- U02 Resisting arrest
- U03 Using a motor vehicle in connection with a felony (not traffic offense)
- U05 Using a motor vehicle to aid and abet a felon
- U06 Vehicular assault
- U07 Vehicular homicide
- U08 Vehicular manslaughter
- U09 Negligent homicide while operating a CMV
- U10 Causing a fatality through the negligent operation of a CMV
- U31 Violation resulting in fatal accident
- W01 Accumulation of convictions (including point systems and/or being judged a habitual offender or violator)
- W14 Physical or mental disability
- W20 Unable to pass DL test(s) or meet qualifications
- W30 Two serious violations within three years
- W31 Three serious violations within three years
- W40 The accumulation of two or more major offenses
- W41 An additional major offense after reinstatement
- W50 The accumulation of two out-of-service order general violations (violations not covered by W51) within ten years
- W51 The accumulation of two out-of-service order violations within ten years while transporting 16 or more passengers, including the driver and/or transporting hazardous materials that require a placard
- W52 The accumulation of three or more out-of-service order violations within ten years
- W60 The accumulation of two RRGV violations within three years.
- W61 The accumulation of three or more RRGV violations within three years.
- W70 Imminent hazard

PART II—CONVICTIONS

- A04 Driving under the influence of alcohol with BAC at or over .04
- A08 Driving under the influence of alcohol with BAC at or over .08
- A10 Driving under the influence of alcohol with BAC at or over .10
- A11 Driving under the influence of alcohol with BAC at or over ___ (detail field required)
- A12 Refused to submit to test for alcohol—Implied Consent Law
- A20 Driving under the influence of alcohol or drugs
- A21 Driving under the influence of alcohol
- A22 Driving under the influence of drugs
- A23 Driving under the influence of alcohol and drugs
- A24 Driving under the influence of medication not intended to intoxicate
- A25 Driving while impaired
- A26 Drinking alcohol while operating a vehicle
- A31 Illegal possession of alcohol
- A33 Illegal possession of drugs (controlled substances)
- A35 Possession of open alcohol container
- A41 Driver violation of ignition interlock or immobilization device
- A50 Motor vehicle used in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance
- A60 Underage Convicted of Drinking and Driving at .02 or higher BAC
- A61 Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC
- A90 Administrative Per Se for .10 BAC
- A94 Administrative Per Se for .04 BAC
- A98 Administrative Per Se for .08 BAC
- B01 Hit and run—failure to stop and render aid after accident
- B02 Hit and run—failure to stop and render aid after accident—Fatal accident

- B03 Hit and run—failure to stop and render aid after accident—Personal injury accident
- B04 Hit and run—failure to stop and render aid after accident—Property damage accident
- B05 Leaving accident scene before police arrive
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- B24 Driving while license disqualified
- B25 Driving while license revoked
- B26 Driving while license suspended
- B27 General, driving while an out of service order is in effect (for violations not covered by B19)
- B41 Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID
- B51 Expired or no driver license (includes DL, CDL, and Instruction Permit)
- B56 Driving a CMV without obtaining a CDL
- B91 Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit)
- D02 Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit)
- D06 Misrepresentation of identity or other facts to obtain alcohol
- D07 Possess multiple driver licenses (includes DL, CDL, and Instruction Permit)
- D16 Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit)
- D27 Violate limited license conditions
- D29 Violate restrictions of driver license (includes DL, CDL, and Instruction Permit)
- D72 Inability to control vehicle
- D78 Perjury about the operation of a motor vehicle
- E03 Operating without HAZMAT safety equipment as required by law
- M09 Failure to obey railroad crossing restrictions
- M10 For all drivers, failure to obey a traffic control device or the directions of an enforcement official at a railroad-highway grade crossing
- M20 For drivers who are not required to always stop, failure to slow down at a railroad-highway grade crossing and check that tracks are clear of approaching train.
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- M22 For drivers who are always required to stop, failure to stop as required before driving onto railroad-highway grade crossing
- M23 For all drivers, failing to have sufficient space to drive completely through the railroad-highway grade crossing without stopping
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- M80 Reckless, careless, or negligent driving
- M81 Careless driving
- M82 Inattentive driving
- M83 Negligent driving
- M84 Reckless driving
- S95 Speed contest (racing) on road open to traffic
- U07 Vehicular homicide
- U08 Vehicular manslaughter
- U09 Negligent homicide while operating a CMV
- U10 Causing a fatality through the negligent operation of a CMV
- U31 Violation resulting in fatal accident

[70 FR 43756, July 29, 2005]

APPENDIX B TO PART 1327—OMB CLEARANCE

The OMB clearance number of this regulation is OMB 2127-0001.

PART 1335 [RESERVED]

PART 1340—UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Subpart A—General

- Sec.
- 1340.1 Purpose.
- 1340.2 Applicability.
- 1340.3 Definitions.

Subpart B—Survey Design Requirements

- 1340.4 In general.
- 1340.5 Selection of observation sites.
- 1340.6 Assignment of observation times.
- 1340.7 Observation procedures.
- 1340.8 Quality control.
- 1340.9 Computation of estimates.

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Subpart C—Administrative Requirements

1340.10 Submission and approval of seat belt survey design.

1340.11 Post-approval alterations to survey design.

1340.12 Re-selection of observation sites.

1340.13 Annual reporting requirements.

APPENDIX A TO PART 1340—STATE SEAT BELT USE SURVEY REPORTING FORM

AUTHORITY: 23 U.S.C. 402; delegation of authority at 49 CFR 1.50.

SOURCE: 76 FR 18056, Apr. 1, 2011, unless otherwise noted.

Subpart A—General

§ 1340.1 Purpose.

This part establishes uniform criteria for State surveys of seat belt use conducted under 23 U.S.C. 402, procedures for NHTSA approval of survey designs, and administrative requirements relating to State seat belt surveys.

§ 1340.2 Applicability.

This part applies to State surveys of seat belt use beginning in calendar year 2013 and continuing annually thereafter. However, a State may elect to conduct its calendar year 2012 seat belt use survey using a survey design approved under this part.

[77 FR 20551, Apr. 5, 2012]

§ 1340.3 Definitions.

As used in this part—

Access ramp means the segment of a road that forms a cloverleaf or limited access interchange.

Cul-de-sac means the closed end of a road that forms a loop or turn-around.

Non-public road means a road on which members of the general public are not allowed to drive motor vehicles.

Nonresponse rate means, for any survey variable, the percentage of unknown values recorded for that variable.

Observation site means the physical location where survey data are collected.

Passenger motor vehicle means a motor vehicle with a gross vehicle weight rating of less than 10,000 pounds, including a passenger car, pickup truck, van, minivan or sport utility vehicle.

Service drive means the segment of a road that provides access to businesses and rest areas.

Traffic circle means the segment of a road or intersection of roads forming a roundabout.

Unnamed road means a road, public or private, that has no name or number designation and is often a farm or logging road.

Vehicular trail means a road designed or intended primarily for use by motor vehicles with four-wheel drive.

Subpart B—Survey Design Requirements

§ 1340.4 In general.

This subpart sets forth the minimum design requirements to be incorporated in surveys conducted under this part.

§ 1340.5 Selection of observation sites.

(a) *Sampling frame requirements*—(1) *County coverage.* The sampling frame from which observation sites are selected shall include counties or county-equivalents (including tribal territories), as defined by the U.S. Census Bureau, that account for at least 85 percent of the State's passenger vehicle occupant fatalities, provided that the average of the last three, four or five years, at the State's option, of available Fatality Analysis Reporting System (FARS) data or State fatality data approved by NHTSA shall be used to determine the State's passenger vehicle occupant fatalities.

(2) *Road coverage.* (i) States shall select observation sites from a database of road inventories approved by NHTSA or provided by NHTSA.

(ii) Except as provided in paragraph (a)(2)(iii) of this section, all roads in the State shall be eligible for sampling. The sampling frame may not be limited only to roads having a stop sign, stop light or State-maintained roads.

(iii) The sampling frame need not include: rural local roads, as classified by the Federal Highway Administration's Functional Classification Guidelines, in counties that are not within a Metropolitan Statistical Area (MSA), as published by the Office of Management and Budget; non-public roads; unnamed roads; unpaved roads; vehicular trails;

access ramps; cul-de-sacs; traffic circles; or service drives.

(b) *Sampling selection requirements.* The set of road segments selected for observation sites shall be chosen based on probability sampling, except that—

(1) The specific observation site locations on the sampled road segments may be deterministically selected;

(2) An alternate observation site may be used to replace an observation site selected based on probability sampling if it is located in the same county or county-equivalent, and has the same roadway classification (e.g., local road segment, collector road segment) when using the protocol of substitution and rescheduling of observation sites pursuant to paragraph (c) of this section.

(c) *Requirements for substitution and rescheduling of observation sites.* The survey design shall include at a minimum the following protocols:

(1) *Protocol when observation site is temporarily unavailable for data collection.* (i) Observers shall return to the observation site at another time provided that it is on the same day of the week and at same time of the day or select an alternate observation site, as described in paragraph (b)(2) of this section, provided the data are collected on the same day and at approximately the same time as the originally-scheduled observation site.

(ii) The original observation site must be used for future data collections.

(2) *Protocol when observation site is permanently unavailable for data collection.* (i) Except as provided in paragraph (c)(2)(ii), another observation site shall be selected in accordance with paragraph (b) of this section.

(ii) If it is not feasible to select another observation site based on probability sampling for the current data collection, an alternate observation site, as described in paragraph (b)(2) of this section, may be selected, provided the data is collected on the same day and at approximately the same time as the originally-scheduled observation site.

(iii) For future data collections, another observation site must be selected based on probability sampling in accordance with paragraph (b) of this section.

(d) *Precision requirement.* The estimated seat belt use rate must have a standard error of no more than 2.5 percentage points.

§ 1340.6 Assignment of observation times.

(a) *Daylight hours.* All daylight hours between 7 a.m. and 6 p.m. for all days of the week shall be eligible for inclusion in the sample.

(b) *Random assignment.* Except as provided in paragraph (c) of this section, the day-of the week and time-of-the-day shall be randomly assigned to observation sites.

(c) *Grouping of observation sites in close geographic proximity.* Observations sites in close geographic proximity may be grouped to reduce data collection burdens if:

(1) The first assignment of an observation site within the group is randomly selected; and

(2) The assignment of other observations sites within the group is made in a manner that promotes administrative efficiency and timely completion of the survey.

§ 1340.7 Observation procedures.

(a) *Data collection dates.* All survey data shall be collected through direct observation completely within the calendar year for which the Statewide seat belt use rate will be reported. Except as provided in § 1340.5(c), the survey shall be conducted in accordance to the schedule determined in § 1340.6.

(b) *Roadway and direction(s) of observation—*(1) *Intersections.* If an observation site is located at an intersection of road segments, the data shall be collected from the sampled road segment, not the intersecting road segment(s).

(2) *Roads with two-way traffic.* If an observation site is located on a road with traffic traveling in two directions, one or both directions of traffic may be observed, provided that—

(i) If only one direction of traffic is observed, that direction shall be chosen randomly;

(ii) If both directions of traffic are observed at the same time, States shall assign at least one person to observe each direction of traffic.

(c) *Vehicle coverage.* Data shall be collected by direct observation from all

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passenger motor vehicles, including but not limited to passenger motor vehicles used for commercial purposes, passenger motor vehicles exempt from the State's seat belt use law and passenger motor vehicles bearing out-of-State license plates.

(d) *Occupant coverage.* Data shall be collected by direct observation of all drivers and right front passengers, including right front passengers in booster seats, but excluding right front passengers in child safety seats. Observers shall record a person as—

(1) Belted if the shoulder belt is in front of the person's shoulder;

(2) Unbelted if the shoulder belt is not in front of the person's shoulder;

(3) Unknown if it cannot reasonably be determined whether the driver or right front passenger is belted.

(e) *Survey data.* At a minimum, the seat belt use data to be collected by direct observation shall include—

(1) Seat belt status of driver;

(2) Presence of right front passenger; and

(3) Seat belt status of right front passenger, if present.

(f) *Data collection environment.* When collecting seat belt survey data—

(1) Observers shall not wear law enforcement uniforms;

(2) Police vehicles and persons in law enforcement uniforms shall not be positioned at observation sites;

(3) Communications by signage or any other means that a seat belt survey is being or will be conducted shall not be present in the vicinity of the observation site.

§ 1340.8 Quality control.

(a) *Quality control monitors.* Monitors shall conduct random, unannounced visits to no less than five percent of the observation sites for the purpose of quality control. The same individual shall not serve as both the observer and quality control monitor at the same observation site at the same time.

(b) *Training.* Observers and quality control monitors involved in seat belt use surveys shall have received training in data collection procedures within the past twelve months. Observers and quality control monitors shall be trained in the observation procedures

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of § 1340.7 and in the substitution and rescheduling requirements of § 1340.5(c).

(c) *Statistical review.* Survey results shall be reviewed and approved by a survey statistician, *i.e.*, a person with knowledge of the design of probability-based multi-stage samples, statistical estimators from such designs, and variance estimation of such estimators.

§ 1340.9 Computation of estimates.

(a) *Data used.* Except as otherwise provided in this section, all data collected pursuant to § 1340.7(e) shall be used, without exclusion, in the computation of the Statewide seat belt use rate, standard error, and nonresponse rate.

(b) *Data editing.* Known values of data contributing to the Statewide seat belt use rate shall not be altered in any manner.

(c) *Imputation.* Unknown values of variables shall not be imputed unless NHTSA has approved the State's imputation procedure prior to data analysis.

(d) *Sampling weights.* The estimation formula shall weight observed data by the sampling weights as required by the sample design and any subsequent adjustments.

(e) *Sampling weight adjustments for observation sites with no usable data.* States shall include a procedure to adjust the sampling weights for observation sites with no usable data, including observation sites where no data were collected and observation sites where data were discovered to be falsified.

(f) *Nonresponse rate.* (1) Subject to paragraph (f)(2) of this section, the nonresponse rate for the entire survey shall not exceed 10 percent for the ratio of the total number of recorded unknown values of belt use to the total number of drivers and passengers observed.

(2) The State shall include a procedure for collecting additional observations in the same calendar year of the survey to reduce the nonresponse rate to no more than 10 percent if the nonresponse rate in paragraph (f)(1) of this section exceeds 10 percent.

(g) *Variance estimation.* (1) Subject to paragraph (g)(2) of this section, the estimated standard error, using the variance estimation method in the survey

design, shall not exceed 2.5 percentage points.

(2) If the standard error exceeds this threshold, additional observations shall be conducted in the same calendar year of the survey until the standard error does not exceed 2.5 percentage points.

Subpart C—Administrative Requirements

§ 1340.10 Submission and approval of seat belt survey design.

(a) *Contents.* The following information shall be included in the State's seat belt survey design submitted for NHTSA approval:

(1) *Sample design.* The State shall—

(i) Define all sampling units, with their measures of size, as provided in § 1340.5(a);

(ii) Specify the data source of the sampling frame of road segments (observation sites), as provided in § 1340.5(a)(2)(i);

(iii) Specify any exclusions that have been applied to the sampling frame, as provided in § 1340.5(a)(2)(iii);

(iv) Define what stratification was used at each stage of sampling and what methods were used for allocation of the sample units to the strata;

(v) Specify the method used to select the road segments for observation sites as provided by § 1340.5(b).

(vi) List all observation sites and their probabilities of selection;

(vii) Explain how the sample sizes were determined, as provided in § 1340.5(d);

(viii) Describe how observation sites were assigned to observation time periods, as provided in § 1340.6; and

(ix) Identify the name and describe the qualifications of the State survey statistician meeting the requirements in § 1340.8(c).

(2) *Data collection.* The State shall—

(i) Define an observation period;

(ii) Specify the procedures to be implemented to reschedule or substitute observation sites when data collection is not possible on the date and time assigned, as provided in § 1340.5(c);

(iii) Specify the procedures for collecting additional data to reduce the nonresponse rate, as provided in § 1340.9(f)(2);

(iv) Describe the data recording procedures; and

(v) Specify the number of observers and quality control monitors.

(3) *Estimation.* The State shall—

(i) Describe how seat belt use rate estimates will be calculated;

(ii) Describe how variances will be estimated, as provided in § 1340.9(g);

(iii) Specify imputation methods, if any, that will be used, as provided in § 1340.9(c);

(iv) Specify the procedures to adjust sampling weight for observation sites with no usable data, as provided in § 1340.9(e); and

(v) Specify the procedures to be followed if the standard error exceeds 2.5 percentage points, as required in § 1340.5(g).

(b) *Survey design submission deadline.* For calendar year 2012, States shall submit proposed survey designs to NHTSA for approval no later than January 3, 2012. Thereafter, States should submit survey designs for NHTSA approval as specified in § 1340.11.

§ 1340.11 Post-approval alterations to survey design.

After NHTSA approval of a survey design, States shall submit for NHTSA approval any proposed alteration to their survey design, including, but not limited to, sample design, seat belt use rate estimation method, variance estimation method and data collection protocols, at least three months before data collection begins.

§ 1340.12 Re-selection of observation sites.

(a) *Re-selection of observation sites.* States shall re-select observation sites using updated sampling frame data, as described in § 1340.5(a), no less than once every five years.

(b) *Re-selection submission deadline.* States shall submit updated sampling frame data meeting the requirements of § 1340.5(a) for NHTSA approval no later than March 1 of the re-selection year.

§ 1340.13 Annual reporting requirements.

(a) *Survey data.* States shall report the following information no later than March 1 of each year for the preceding

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calendar year's seat belt use survey, using the reporting form in appendix A to this part:

- (1) Spreadsheet in electronic format containing the raw data for each observation site and the observation site weight;
- (2) Statewide seat belt use rate estimate and standard error;
- (3) Nonresponse rate for the variable "belt use," as provided in §1340.9(f);
- (4) Dates of the reported data collection;
- (5) Observation sites, identified by type of observation site (*i.e.*, observation site selected in the original survey design, alternate observation site selected subsequent to the original survey design), and by characteristics of the observation site visit (*i.e.*, at least one vehicle observed, no vehicles observed); and
- (6) Name of the State survey statistician meeting the qualification requirements, as provided in §1340.8(c).

(b) *Certifications by Governor's Highway Safety Representative.* The Governor's Highway Safety Representative (GR) or if delegated in writing, the Coordinator of the State Highway Safety Office, shall sign the reporting form certifying that—

- (1) _____ has been designated by the Governor as the GR, and if applicable, the GR has delegated the authority to sign the certification in writing to _____, the Coordinator of the State Highway Safety Office;
- (2) The reported Statewide seat belt use rate is based on a survey design that was approved by NHTSA, in writing, as conforming to the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340;
- (3) The survey design has remained unchanged since the survey was approved by NHTSA; and
- (4) _____, a qualified survey statistician, reviewed the seat belt use rate reported in Part A (of the certification) and information reported in Part B and has determined that they meet the Uniform Criteria for State

Observational Surveys of Seat Belt Use, 23 CFR part 1340.

(c) [Reserved]

(d) *Audits.* NHTSA may audit State survey results and data collection. The State shall retain the following records for five years and make them available to NHTSA in electronic format within four weeks of request:

- (1) Computation programs used in the sample selection;
- (2) Computation programs used to estimate the Statewide seat belt use rate and standard errors for the surveys conducted since the last NHTSA approval of the sample design; and
- (3) Sampling frame(s) for design(s) used since the last NHTSA approval of the sample design.

APPENDIX A TO PART 1340—STATE SEAT BELT USE SURVEY REPORTING FORM

PART A: To be completed by the Governor's Highway Safety Representative (GR) or if applicable, the Coordinator of the State Highway Safety Office.

State: _____
Calendar Year of Survey: _____
Statewide Seat Belt Use Rate: _____

I hereby certify that:

- _____ has been designated by the Governor as the State's Highway Safety Representative (GR), and if applicable, the GR has delegated the authority to sign the certification in writing to _____, the Coordinator of the State Highway Safety Office.
- The reported Statewide seat belt use rate is based on a survey design that was approved by NHTSA, in writing, as conforming to the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340.
- The survey design has remained unchanged since the survey was approved by NHTSA.
- _____, a qualified survey statistician, has reviewed the seat belt use rate reported above and information reported in Part B and has determined that they meet the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340.

Signature _____

Date _____

Printed name of signing official _____

PART B—DATA COLLECTED AT OBSERVATION SITES

Site ID	Site type ¹	Date observed	Sample weight	Number of drivers	Number of front Passengers	Number of occupants ² belted	Number of occupants unbelted	Number of occupants with unknown belt use
Total								

Standard Error of Statewide Belt Use Rate³ _____

Nonresponse Rate, as provided in §1340.9(f)
 Nonresponse rate for the survey variable seat belt use: _____

¹ Identify if the observation site is an original observation site or an alternate observation site.

² Occupants refer to both drivers and passengers.

³ The standard error may not exceed 2.5 percent.

PARTS 1345–1399 [RESERVED]