

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 23 CFR Parts 1325 and 1327

[Docket No. 84-02; Notice 10]

RIN 2127-AG21

#### Procedures for Transition to New National Driver Register

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to remove the agency's regulation on procedures for transition to the new National Driver Register (NDR). It also proposes to amend portions of the agency's regulation on participating in the NDR Problem Driver Pointer System (PDPS). These portions pertain to the steps that States were to follow to notify the NDR of their interest in participating in the NDR under PDPS. All States have already notified the NDR of their interest in participating in the NDR under PDPS, and it is expected that the transition from the old NDR to the new PDPS will be completed no later than November 4, 1996. These provisions will be obsolete at that time. Consistent with President Clinton's regulatory reform initiative, NHTSA proposes to remove these provisions when the transition to the new NDR has been completed.

**DATES:** Comments must be received by June 3, 1996.

**ADDRESSES:** Written comments should refer to the docket number and the number of this notice and be submitted to (preferably in ten copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

**FOR FURTHER INFORMATION CONTACT:** Mr. William Holden, Chief, National Driver Register (NTS-24), 400 Seventh Street,

S.W., Washington, D.C. 20590; telephone (202) 366-4800 or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law (NCC-30), 400 Seventh Street, S.W., Washington, D.C. 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 records of covered licensing actions and convictions to the NDR, 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 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 provide 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 provide, however, that States that have not been certified as "participating States" by April 30, 1995, that wish to continue participating in the NDR, may request an extension of time.

#### Current Status on Notification and NDR Participation

In accordance with Part 1327, all 50 States and the District of Columbia have notified NHTSA of their intention to be bound by the requirements of the PDPS NDR system.

As of the date of the publication of this notice of proposed rulemaking, 38 States have completed their transition to PDPS. The remaining States have requested and been granted extensions of time. It is expected that all States will have converted their NDR operations from the old system to the new system no later than November 4, 1996. At that time, the transition from the old NDR system to the new NDR PDPS will be complete. Part 1325 of 23 CFR will then no longer be necessary and section 1327.4 of 23 CFR will require modification. NHTSA proposes to make these changes.

## Regulatory Analyses and Notices

*Executive Order 12778 (Civil Justice Reform)*

This proposed rule would not have any preemptive or retroactive effect. It imposes no requirements on the States, but rather simply proposes to revise and eliminate outdated or burdensome provisions in the agency's regulations. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The agency has determined that this proposed action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. This proposed rule would not impose any additional burden on the public. It is technical in nature and would not change the requirements of the program. It is anticipated that there would be no economic impact as a result of this rulemaking. Accordingly, a full regulatory evaluation is not required.

*Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), NHTSA has evaluated the effects of this proposed action on small entities. Based on the evaluation, the agency certifies that this proposed action would not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

*Paperwork Reduction Act*

This proposed action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

*National Environmental Policy Act*

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any significant impact on the quality of the human environment.

*Executive Order 12612 (Federalism Assessment)*

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Accordingly, the preparation of a Federalism Assessment is not warranted.

## Comments to the Docket

NHTSA is providing a 45-day comment period for interested parties to present data, views, and arguments on the proposed action. The agency invites comments on the issues raised in this notice and any other issues commenters believe are relevant to this action. All comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Necessary attachments may be appended to these submissions without regard to the 15-page limit.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule, if one is issued, will be considered as suggestions for further rulemaking action. The agency will continue to file relevant information in the docket as it becomes available after the closing date and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified of receipt of their comments by the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of the comments, the docket supervisor will return the postcard by mail.

## List of Subjects

*23 CFR Part 1325*

Highway safety, Intergovernmental relations.

*23 CFR Part 1237*

Highway safety, Intergovernmental relations, Reporting and recordkeeping requirements.

Under the authority of 49 CFR Part 1.50, the Administrator of the National Highway Traffic Safety Administration proposes to amend 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 subparagraphs (c) (1) and (3) of this section and must be recertified 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: April 10, 1996.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 96-9368 Filed 4-16-96; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 935

[OH-236-FOR]

#### Ohio Abandoned Mine Land Reclamation Plan

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Ohio abandoned mine land reclamation plan (hereinafter the "Ohio plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment consists of changes to provisions of the Ohio plan pertaining to the acid mine drainage set-aside program, water quality

improvement, project eligibility, and remining incentives. The amendment is intended to revise the Ohio plan to be consistent with SMCRA, as amended.

**DATES:** Written comments must be received by 4:00 p.m., [E.S.T.], May 17, 1996. If requested, a public hearing on the proposed amendment will be held on May 13, 1996. Requests to speak at the hearing must be received by 4:00 p.m., [E.S.T.], on May 2, 1996.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, at the address listed below.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Copies of the Ohio plan, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief,  
Appalachian Regional Coordinating  
Center  
Office of Surface Mining Reclamation  
and Enforcement, 3 Parkway Center,  
Pittsburgh, PA 15220, Telephone:  
(412) 937-2153

Ohio Division of Mines and  
Reclamation, 1855 Fountain Square  
Court, Columbus, Ohio, 43224,  
Telephone: (614) 265-1076

**FOR FURTHER INFORMATION CONTACT:**  
George Rieger, Field Branch Chief,  
Appalachian Regional Coordinating  
Center, Telephone: (412) 937-2153.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Ohio Plan

On August 10, 1982, the Secretary of the Interior approved the Ohio plan. Background information on the Ohio plan, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the April 15, 1994, Federal Register (59 FR 17930). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 935.25.

##### II. Description of the Proposed Amendment

By letter dated March 19, 1996, (Administrative Record No. OH-2163) Ohio submitted a proposed amendment

to its program pursuant to SMCRA at its own initiative. The provisions of the Ohio plan that it proposes to amend are: acid mine drainage set-aside program, water quality improvement, project eligibility, and remining incentives.

Specifically, Ohio proposes the following changes. At section 4.1, subsection G is added to (1) provide for the reclamation of areas causing acid mine drainage (AMD) such that: AMD problems are eliminated as a component of a high priority reclamation project; AMD areas causing a "general welfare" impact to the public will be eligible for abatement; and AMD areas impacting watersheds will be abated in accordance with AMD set-aside criteria; and (2) encourage the remining of areas causing AMD within certain areas through the funding of AMD remediation projects and studies necessary to authorize mining activities on certain previously mined areas.

At section 4.5, the requirement that research and demonstration projects be submitted to OSM independent of work plan submissions is deleted. At section 4.5.3, the project selection process is revised to include AMD projects under certain conditions, such as the AMD set-aside, AMD associated with other high priority projects, AMD associated with general welfare, and AMD associated with remining operations.

#### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Ohio plan.

#### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Appalachian Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.S.T.] on May 2, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the