

the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Santa Barbara Federal Savings and Loan Association, Santa Barbara, California ("Association"), OTS. No. 8850, with the Resolution Trust Corporation as sole Receiver for the Association, on August 9, 1991.

Dated: August 14, 1991

By the Office of Thrift Supervision.

Nadine Y. Washington,

*Corporate Secretary.*

[FR Doc. 91-19818 Filed 8-19-91; 8:45 am]

BILLING CODE 6720-01-M

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[AC-40; OTS No. 7185]

**Estill Federal Savings Bank, Irvine, KY,  
Final Action; Approval of Conversion  
Application**

Notice is hereby given that on August 12, 1991, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of Estill

Federal Savings Bank, Irvine, Kentucky for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Assistant Regional Director, Office of Thrift Supervision of Cincinnati, 525 Vine Street, suite 700, Cincinnati, Ohio 45202.

Dated: August 13, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

*Corporate Secretary.*

[FR Doc. 91-19817 Filed 8-19-91; 8:45 am]

BILLING CODE 6720-01-M

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[AC-41; OTS No. 4044]

**Shelby County Savings Bank, FSB,  
Shelbyville, IN, Final Action; Approval  
of Conversion Application**

Notice is hereby given that on August 13, 1991, the Office of the Chief Counsel, Office of the Thrift Supervision, acting

pursuant to delegated authority, approved the application of Shelby County Savings Bank, FSB, Shelbyville, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Deputy Regional Director, Office of Thrift Supervision of Indianapolis, 8250 Woodfield Crossing Blvd., suite 305, Indianapolis, Indiana 46204.

Dated: August 14, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

*Corporate Secretary.*

[FR Doc. 91-19816 Filed 8-19-91; 8:45 am]

BILLING CODE 6720-01-M

# Sunshine Act Meetings

Federal Register

Vol. 56, No. 161

Tuesday, August 20, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## NATIONAL COUNCIL ON DISABILITY

### Quarterly Meeting

**AGENCY:** National Coalition on Disability.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability and the hearing on the research needs of the Americans with Disabilities Act. This notice also describes the functions of the National Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (Pub. L. 94-409).

### DATES:

#### Quarterly Meeting

September 18, 1991, 8:30 a.m. to 5 p.m.

September 17, 1991, 8:30 a.m. to 5 p.m.

Hearing on the Research Needs of the Americans with Disabilities Act

September 18, 1991, 8:30 a.m. to 5 p.m.

September 19, 1991, 8:30 a.m. to 5 p.m.

**LOCATION:** Ritz Carlton Hotel, 1515 West Third Street, Cleveland, Ohio.

### FOR FURTHER INFORMATION CONTACT:

National Council on Disability, 800 Independence Avenue, SW., suite 814, Washington, DC 20591 (202) 267-3846, TDD: (202) 267-3232.

The National Council on Disability is an independent federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Public Law No. 95-602 in 1978), the National Council was initially an advisory board within the Department of Education. In 1984, however, the National Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. 98-221).

The National Council is charged with reviewing all laws, programs, and

policies of the Federal Government affecting individuals with disabilities and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR). In addition, the National Council is mandated to provide guidance to the President's Committee on Employment of People with Disabilities.

The quarterly meeting of the National Council shall be open to the public. The proposed agenda includes:

Report from Chairperson and Executive Committee

Update on NIDRR

Update on the implementation of the Americans with Disabilities Act

Update on research policy studies: education; technology; and, health insurance

Committee Meetings/Committee Reports

Unfinished Business

New Business

Announcements

Adjournment

Hearing on the research issues relating to the implementation of the Americans with Disabilities Act

Records shall be kept of all National Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, DC on August 14, 1991.

Harold W. Snider,

Acting Executive Director.

[FR Doc. 91-19814 Filed 8-19-91; 8:45 am]

BILLING CODE 6820-B5-M

## NUCLEAR REGULATORY COMMISSION

**DATE:** Weeks of August 19, 26, September 2, and 9, 1991.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Open and Closed.

## MATTERS TO BE CONSIDERED:

### Week of August 19

Wednesday, August 21

9:30 a.m. Briefing on Program for Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) for Advanced Reactors (PUBLIC MEETING)

2:00 p.m. Briefing by NRC Staff on International Programs (PUBLIC MEETING)

3:00 p.m. Affirmation/Discussion and Vote (PUBLIC MEETING)

a. Program Fraud Civil Remedies Act (10 CFR Part 13)—Final Rule (Tentative) (postponed from August 16)

### Week of August 26—Tentative

Wednesday, August 28

11:30 a.m. Affirmation/Discussion and Vote (PUBLIC MEETING) (if needed)

### Week of September 2—Tentative

There are no meetings scheduled for the Week of September 2.

### Week of September 9—Tentative

Monday, September 9

2:00 p.m. Briefing on IIT Report on GE-Wilmington Incident (PUBLIC MEETING)

Wednesday, September 11

11:30 a.m. Affirmation/Discussion and Vote (PUBLIC MEETING) (if needed)

**NOTE:** Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that not item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(301) 492-0292.

### CONTACT PERSON FOR MORE

**INFORMATION:** William Hill (301) 492-1661.

Dated: August 16, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91-20053 Filed 8-16-91; 2:30 pm]

BILLING CODE 7590-01-M

# Corrections

Federal Register

Vol. 56, No. 161

Tuesday, August 20, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared documents are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1493

#### CCC Export Credit Guarantee Program (GSM-102) and CCC Intermediate Export Credit Guarantee Program (GSM-103)

##### Correction

In rule document 91-13215 beginning on page 25998 in the issue of Thursday, June 6, 1991, make the following corrections:

1. On page 26004, in the first column, in the fourth line from the top, "§ 1493.80(a)(10)" should read "§ 1493.40(a)(10)". In the same column, in the third line from the bottom, "Participants" was misspelled.

##### § 1493.30 [Corrected]

2. On page 26010, in the second column, in § 1493.30(c), in the seventh line, "any" should read "an".

##### § 1493.50 [Corrected]

3. On page 26011, in the first column, the last paragraph should be a continuation of § 1493.50(e) and in the next to last line, "exporter" should read "exported".

##### § 1493.60 [Corrected]

4. In § 1493.60(a), in the second line, "the" should read "that".

##### § 1493.110 [Corrected]

5. On page 26013, in the 1st column, in § 1493.110(a), in the 18th line, delete the second "with".

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand; Termination of Antidumping Duty Administrative Review

##### Correction

In notice document 91-17387 appearing on page 33421 in the issue of Monday, July 22, 1991, make the following corrections:

1. On page 33421, in the first column, under **SUMMARY**, in the seventh line, "not" should read "now".

2. On the same page, in the same column, under **BACKGROUND**, in the next to the last line, "not" should read "now".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

#### [FRL-3966-1]

#### Approval and Promulgation of Implementation Plans; ND Standards of Performance for New Stationary Sources

##### Correction

In rule document 91-14620 beginning on page 28322 in the issue of Thursday, June 20, 1991, make the following correction:

On pages 28324 and 28325, in § 60.4(c), in the table, the heading of the sixth column should read "SD".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Health Care Policy and Research

#### Public Meeting on Clinical Practice Guidelines for Management of Cancer-Related Pain

##### Correction

In notice document 91-18070 beginning on page 36155 in the issue of Wednesday July 31, 1991, make the following corrections:

1. On page 36155, in the third column, in the last complete paragraph, in the sixth line from the end of the paragraph, "on" should read "to".

2. On page 36156, in the first column, in the second complete paragraph, in the last line, the FAX number should read "301-227-6679".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 91F-0169]

#### W. R. Grace, Ltd.; Filing of Food Additive Petition

##### Correction

In notice document 91-16925 appearing on page 32435 in the issue of Tuesday, July 16, 1991, make the following corrections:

1. On page 32435, in the first column, under **FOR FURTHER INFORMATION CONTACT**, in the second line, after "Center for" add "Food Safety and Applied Nutrition (HFF-335)".

2. On the same page, in the same column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the third line, "(5)" should read "(5))".

3. On the same page, in the same column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the second line, "section" should read "action".

BILLING CODE 1505-01-D

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Areas # 2514]

### California; Declaration of Disaster Loan Area

##### Correction

In notice document 91-18380 beginning on page 37118 in the issue of Friday, August 2, 1991, make the following correction:

On page 37119, in the second column, in paragraph 8., in the second line, remove "not".

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 1**

[CGD 90-067]

RIN 2115-AD67

**Recreational Vessel Fees***Correction*

In rule document 91-15512 beginning on page 30244 in the issue of Monday, July 1, 1991, make the following corrections:

1. On page 30251, in the table, in the first column, in the third entry, remove the symbol appearing before "27".
2. On the same page, in the 3rd column, in the last paragraph, remove

the 10th and 11th lines, which read "recreationalboaters." Coast Guard programs provide benefits to".

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION****Coast Guard****46 CFR Part 16**

[CGD 90-014]

RIN 2115-AC45

**Chemical Drug Testing Programs for Commerical Vessel Personnel***Correction*

In rule document 91-16101 beginning on page 31030 in the issue of Monday,

July 8, 1991, make the following corrections:

1. On page 31030, in the 2nd column, in the 1st complete paragraph, in the 8th and 30th lines, "has" should read "had".
2. On page 31031, in the second column, in the first complete paragraph, in the ninth line, insert "not" after "does".
3. On page 31032, in the second column, in the second complete paragraph, in the second line, "would" should read "should".

BILLING CODE 1505-01-D

# Federal Register

**Tuesday  
August 20, 1991**

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## **Part II**

## **Department of Transportation**

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**National Highway Traffic Safety  
Administration**

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**23 CFR Parts 1325 and 1327  
Procedures for Participating in and  
Receiving Data From the National Driver  
Register Problem Driver Pointer System;  
Final Rule**

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 23 CFR Parts 1325 and 1327

[Docket No. 84-02; Notice 8]

RIN 2127-AD26

## Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

**SUMMARY:** This rule implements the new National Driver Register (NDR) system, also called the Problem Driver Pointer System (PDPS), which was developed and pilot tested in accordance with the NDR Act of 1982. Specifically, this rule establishes the procedures that a State must follow to notify the agency of its intention to participate in the NDR PDPS, the conditions of State participation, and the procedures and conditions under which other authorized parties may receive NDR information. The PDPS is intended to enhance traffic safety by assisting driver licensing officials in obtaining accurate and timely information regarding the driving records of certain individuals.

**EFFECTIVE DATE:** This rule becomes effective December 18, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mr. Clayton Hatch, Chief, Driver and Vehicle Services Division (NTS-24), National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590; telephone (202) 366-4800.

**SUPPLEMENTARY INFORMATION:** The National Driver Register Act of 1982 (Pub. L. 97-364) called for the establishment of an improved National Driver Register (NDR) to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. On July 11, 1985, the National Highway Traffic Safety Administration (NHTSA) published a final rule in the *Federal Register* (50 FR 28191) on the procedures for transition from the old NDR system to the new NDR system. This notice described in detail the old NDR system, the new system that was being developed to improve the NDR (the Problem Driver Pointer System or PDPS), and the pilot test program that was to be conducted to test the effectiveness of the system. It also established the procedures for transition to the PDPS. The PDPS differs

from the old NDR system in that it maintains only identification data on problem drivers and "points" to the State of Record (SOR) where the substantive adverse action data can be obtained. It also provides for automated electronic communication. The one-year pilot test was completed with successful results on July 31, 1988.

On April 4, 1990, NHTSA published a notice of proposed rulemaking in the *Federal Register* (55 FR 12509) proposing the procedures that each State must follow to notify the agency of its intention to participate in the NDR PDPS, the conditions of State participation, and the procedures and conditions under which other authorized parties may receive NDR information through participating States. The comment period for this notice expired on May 21, 1990, and a second notice was issued on July 2, 1990 (55 FR 27251), reopening the comment period until October 1, 1990. The comments received in response to these notices as well as the procedures and conditions that are being adopted in this final rule are discussed below.

## Discussion of Comments

Fifteen commenters responded to the April 4 and July 2, 1990 notices. The commenters include the American Association of Motor Vehicle Administrators (AAMVA), the American Trucking Associations (ATA), the National Driver Register Advisory Committee (NDRAC), the National Transportation Safety Board (NTSB), and representatives from eleven States. Additionally, since the AAMVA represents all State motor vehicle administrators, comments from other States are embodied in the AAMVA response. NHTSA also received comments from one individual prior to publication of the NPRM.

The comments were very supportive in general of the agency's proposed regulation. They were also supportive of the PDPS concept, and recognized the positive impact PDPS will have on the driver licensing process and on traffic safety in general. The ATA, for example, states, "The trucking industry is, gratified \* \* \* to see that NHTSA is now addressing specific proposals to upgrade the NDR by converting it to a pointer system, and to set forth the specific procedures under which employers and prospective employers of drivers may gain access to information." NTSB states, "the proposed rulemaking \* \* \* will serve as a useful tool for employers in screening and hiring prospective operators of transportation vehicles."

The respondents did raise questions and voice concerns, however, regarding various aspects of NHTSA's proposal. Each of these concerns is discussed in detail below. Before responding to comments that address the particular provisions of the proposed regulations, however, NHTSA will discuss a number of general issues associated with its proposal.

## 1. Transition Period

The NPRM proposed that the transition period for the NDR would continue until the Register system is "fully electronic," and this would occur when each State that has notified the agency of its intention to participate, is in fact participating in accordance with all statutory and regulatory conditions. The proposed regulation did not establish a date certain, however, by which this must occur.

In order to assist States in their planning and programming efforts, three States and AAMVA recommend that NHTSA establish a fixed future date by which all States must be converted. Delaware and AAMVA recommend that this date be set at April 1995, which is three years after the implementation deadline for the Commercial Driver's License (CDL) Program. NHTSA agrees that a fixed future date by which the transition period must end would enable the States to plan and program their efforts more effectively. Therefore, in this final rule, the agency revises parts 1325 and 1327 to provide that the transition period will end when all States that are participating in the NDR have been certified by the agency as participating States, and establish April 30, 1995 as the date by which this must occur.

During the transition period, States that are certified as participating States will participate according to the procedures and conditions contained in this rule. In addition, all States, whether or not they have been certified as participating States, will exchange information in accordance with the Transition Procedures from the Current to the New National Driver Register, 23 CFR part 1325, as revised by this final rule. Once the transition period has ended, States that have not been certified as participating States will not be able to participate in the NDR in any manner.

NHTSA recognizes, however, that unforeseen difficulties may prevent a State from meeting this deadline. Accordingly, we have also included, in the rule, a provision to allow a State that is unable to meet this date to request an extension of time. In the

request, the State must include the reasons for the request, the length of the extension requested and a plan showing that conversion will be completed by the proposed extended deadline. NHTSA does not expect to grant extensions in the absence of a showing of good cause. The agency intends to provide technical assistance to States to assist in their conversion efforts.

## 2. Mandatory Participation

NHTSA has stated, on numerous occasions, that the full benefits of the NDR will not be realized unless all States use the system. The commenters fully agree. In fact, AAMVA, NDRAC, and six States express their belief that States should be required to participate in the NDR, and recommend that legislation be sought to ensure such participation.

NHTSA acknowledges that the NDR Act, when it was passed in 1982, established the Register as a voluntary system, and agrees that mandatory participation would make the NDR more effective. However, we believe that a legislative amendment is no longer necessary to achieve this goal. As four State commenters note, States are already required to participate in the NDR in order to comply with the Commercial Motor Vehicle Safety Act (CMVSA) of 1986, which requires States to check the NDR before issuing a commercial driver's license (CDL) to any person to operate a commercial motor vehicle by April 1, 1992, or risk the withholding of a portion of their Federal highway grant funds. In addition, as explained above, under the regulation being promulgated in today's final rule, States will not be permitted to use the NDR at all, and thus will be in non-compliance with the CMVSA, if they are not certified as participating States by April 30, 1995. Similarly, as California points out in its comments, "if a member State decides to terminate its status as a participating State, then that State would not be in compliance with the CMVSA." As a result, these requirements, when coupled together, in effect amount to mandatory participation. A legislative amendment is, therefore, unnecessary.

## 3. Compatibility With CDLIS

The States are currently in the process of making changes to their systems to enable them to communicate with the Commercial Driver's License Information System (CDLIS). The CDLIS was established pursuant to the CMVSA to serve as a clearinghouse and depository of information pertaining to the licensing and identification of commercial drivers. These

communications will take place through the American Association of Motor Vehicle Administrators Telecommunications Network (AAMVAnet), a network of all State chief driver licensing officials operated by AAMVA.

As a result, the commenters strongly advise that the new NDR should match CDLIS operations as closely as possible. They also advise that certain NDR functions should be eliminated since these functions can be performed over the AAMVAnet without the involvement of the NDR. Based on these new conditions, specific changes to the proposal were suggested with regard to: (a) The Driver License Status Indicator (DLSI) and (b) the Driver History Summary (DHS).

NHTSA has decided to adopt these changes. We believe the suggested changes will not only make the conversion to the new NDR much simpler for the States, it will also improve NDR operations. Just as those who developed AAMVAnet and CDLIS benefited from NHTSA's experience developing and operating the NDR since 1960, so too will NHTSA and the NDR benefit from the improvements made by those who developed those two systems.

In order to fully understand the changes that were suggested in the comments, one needs to first understand the manner in which the NPRM proposed that the PDPS would be operated. In the NPRM, the agency proposed that PDPS would operate as follows:

To make a request, the State (known as the State of Inquiry (SOI)) asks the NDR to check whether an adverse action has been taken in any other State against an individual. \* \* \* If the NDR locates a record on the individual, it first provides a response to the inquiring State indicating that a record has been found. (It also identifies the State in which the action occurred (known as the State of Record, or SOR) and indicates the "status" of the driver, i.e., whether the driver currently has an active license. This is called the Driver License Status Indicator.) If the State's request is made on its own behalf, the NDR then obtains the adverse action information (Driver History Summary) from the \* \* \* (State of Record) and relays it, without interception, to the inquiring State. \* \* \*

The commenters suggest that: (1) Instead of requiring that States maintain a Driver License Status Indicator (DLSI) on the NDR system, NHTSA should require that each State expand its Driver Status Response capability (mandated under CDLIS) to cover both commercial and non-commercial drivers and (2) CDLIS's Driver History Record should replace NDR's Driver History Summary and NDR should no longer initiate the

request for this information from the SOR or relay the information to the SOI. The agency has decided to adopt these recommendations. Accordingly, PDPS will now operate as follows:

To make a request, the State (known as the State of Inquiry (SOI)) asks the NDR to check whether an adverse action has been taken in any other State against an individual. \* \* \* If the NDR locates a record on the individual, it will provide a response to the inquiring State indicating that a record has been found. It will also identify the State in which the action occurred (known as the State of Record, or SOR). If the State's request was made on its own behalf and there has been a match, the NDR will send a request for driver status information to the SOR on behalf of the SOI. The SOR will be required to respond interactively to the SOI (not through NDR). The SOI may then request the Driver History Record from the SOR directly (not through NDR) and the SOR will be required to respond.

Missouri recommends that, in the case of multiple probable matches to a State inquiry, NDR should only return the pointer records; the SOI should be required to issue the driver status requests. This recommendation is consistent with the CDLIS process. NHTSA believes this service is important, however, whether States receive matches involving one State or multiple States. Accordingly, NDR operations will differ from those of CDLIS in this respect. If the State's request was made on its own behalf and there has been a match (whether with one State or with many), NDR will request driver status information from the SOR on behalf of the SOI.

A more detailed discussion of these issues is included below, in the section-by-section analysis.

One of the commenters suggested that CDLIS and NDR should be consolidated. Such an undertaking would require considerable effort and cost. Particularly due to the regulatory changes referenced above, which will make NDR operations as compatible as possible with those of CDLIS, NHTSA believes there is no need or justification for consolidating these two systems.

AAMVA suggests, in its comments, that the NDR Central Site system should be ready to "handle any jurisdiction that wishes to convert to the new NDR" by March 1992. By this, NHTSA believes that AAMVA is recommending that the NDR Central Site be capable of production by this date. The changes that are being made in this final rule to facilitate State conversion to PDPS will require significant system modifications to the NDR system. While we plan to expedite these modifications to the extent possible, the agency cannot

guarantee that they will be completed by March 1992. Even if they are not completed by that time, however, this should not delay the State conversion process since all steps to implement PDPS, short of testing and actual production, can be accomplished simultaneously at the Central Site and in the States.

#### 4. Individuals To Be Reported to NDR

The NDR Act of 1982 is clear. The individuals who are to be reported to the NDR are those whose driver licenses have been denied, canceled, revoked or suspended for cause, or who have been convicted of certain serious traffic offenses. Nonetheless, a number of comments were received suggesting that the NDR should be made up of a different population.

##### (a) All Drivers

Wisconsin, Idaho and Delaware, for example, believe that at some future date the NDR should be combined with CDLIS and expanded to track all drivers. Obviously, such a change would require legislative action, since the NDR is limited statutorily to problem drivers and the CDLIS is limited statutorily to commercial drivers. Interestingly enough, in a different context, some of these same commenters also suggested reducing the population of drivers to be contained on the Register system.

##### (b) Hot File

Delaware and AAMVA recommend that the NDR should serve only as a "hot file" pointer system. By this, the commenters mean that the NDR should maintain a pointer record on an individual only if that individual's driving privileges are currently withdrawn. It should not contain records on drivers whose privileges have been restored or who have been convicted of the violations specified in the NDR Act but have not lost their license as a result. Delaware suggests that, by adopting this change, States will avoid unnecessary data transmission charges, timeliness will be improved, and States will be able to deliver better customer service.

Support for this change, however, is far from universal. AAMVA notes, in its comments, that of all the issues considered by the AAMVA community, this was one of only two on which AAMVA could not present a unanimous recommendation of all State Motor Vehicle Administrators. AAMVA also qualifies its support of the "hot file" concept by stating that it should be adopted only if certain supporting processes are mandatory and in place, and it recognizes that these processes

are not currently required. In addition, Idaho and the NDRAC submitted separate comments opposing the idea.

NHTSA does not support the recommendation that the NDR should be operated as a "hot file." the agency believes that such a change would diminish the utility of the system for our users. If the NDR were a "hot file" only, a requester would not receive information concerning individuals whose privileges were withdrawn during the past three years, but whose privileges are not currently withdrawn or who have been convicted of certain serious traffic offenses without losing their driver's license. This information is important to many of our users, especially those who are interested in the information for employment purposes, such as the Federal Aviation Administration, Federal Railroad Administration and truck and railroad companies. It is also important to States, who are required by the CMVSA of 1986, before issuing a person a commercial driver's license, to request information from the NDR on whether the person has been disqualified from operating a motor vehicle, convicted of the traffic offenses identified in the NDR Act or had a non-commercial driver's license suspended, revoked, or cancelled for cause during the last three years.

Converting the NDR to a "hot file" would also require legislative change. The NDR Act of 1982 specifically provides that individuals convicted of certain offenses are to be reported to the NDR, and this provision was included in the Act specifically to capture those individuals who are convicted of these offenses but do not lose their driving privileges. If the NDR were operated as a "hot file," as suggested by Delaware and AAMVA, this provision would be rendered meaningless, for records on these individuals would never be reported.

Further, Idaho stresses the importance of keeping the NDR file up-to-date, and the difficulty States have had keeping files up-to-date in the past. NHTSA agrees. A "hot file" would be successful only if States are vigilant about updating the NDR. In fact, it was the States' failure to maintain the accuracy of the records in the NDR which led initially to the development of the PDPS concept and the passage of the NDR Act of 1982.

#### Section-by-Section Analysis

The agency received no comments regarding §§ 1327.1, 1327.2 and 1327.4 of the regulation, entitled Scope, Purpose and Notification procedures. These sections will be adopted as proposed in the NPRM. While no comments were

made regarding the definitions in 1325 or 1327 per se, some comments pertaining to other regulatory provisions required the agency to reconsider the definition of certain terms. Where changes have been made, they will be discussed in the context of the relevant regulatory provisions.

We received many comments on §§ 1327.5, Conditions for Becoming a Participating State, and 1327.6, Conditions and Procedures for Other Authorized Users of the NDR. The comments received regarding these sections, and any changes being made to the agency's original proposal in the NPRM, in response, are discussed in detail below. Although they are not all discussed in detail, the agency has also made a number of editorial changes to improve the clarity of parts 1325 and 1327 or to ensure the consistency between these two parts.

#### Conditions for Becoming a Participating State

As explained in the NPRM, the agency proposed that a State wishing to participate in the NDR PDPS must submit notification to NHTSA which includes, among other elements, a certification that the State intends to be bound by the requirements of the NDR Act of 1982 and § 1327.5 of the implementing regulation. The State must also be certified by the agency as having met several conditions, which include:

- (1) Reporting requirements of section 205 of the Act;
- (2) Dual record reporting requirement of the transition procedures;
- (3) State of Inquiry function, on the State's own behalf, regarding first time, non-minimum age driver license applicant;
- (4) State of Inquiry function on behalf of other parties authorized to receive NDR information under section 206 of the Act; and
- (5) State of Record function and responses to requests for driver license abstracts.

Comments were received regarding each of these conditions. The comments, and changes the agency has decided to make to the regulation, as a result, are discussed below.

#### 1. Reporting Requirements of Section 205 of the Act

Section 205(a) of the NDR of 1982 indicates who is to be reported to the NDR, and section 205(b) of the Act indicates what is to be reported concerning these individuals. Under section 205(a), States are required to transmit a report to the NDR regarding any individual whose driving privileges

have been denied, canceled, revoked or suspended for cause or who has been convicted of certain serious traffic offenses. The NPRM contained an appendix listing the violations it considered to be "for cause." Regarding each of these individuals, 205(b) requires, and NHTSA proposed in the NPRM, that States must submit a record containing identifying information about the individual and the name of the State that transmitted the information. The agency also proposed that State records must include a Driver License Status Indicator (DLSI). Many comments were received on these reporting requirements. (Section 205(c) of the NDR Act indicates when reports must be transmitted to the NDR, but no comments were received on the portion of the regulation which implemented this subsection.)

#### (a) All Drivers

As already discussed, three States recommend that, at some time in the future, the NDR should be combined with CDLIS and expanded to track all drivers. No commenters suggest, however, that such a change could be adopted in this final rule, or without legislative action. Accordingly, it has not been included in this regulation.

#### (b) Hot File

We have also discussed, previously in this final rule, the recommendation of Delaware and AAMVA that the NDR should be operated as a hot file, and should maintain a pointer record on an individual only if that individual's driving privileges are currently withdrawn. It should not contain records on drivers whose privileges have been restored or who have been convicted of the violations specified in the NDR Act but have not lost their license as a result. For the reasons already discussed, the hot file concept has not been adopted.

#### (c) Convictions

Consistent with their recommendation that the NDR should be operated as a "hot file," the State of Delaware recommends that States should not be required to report convictions to the NDR, and AAMVA recommends that convictions should be reported only if an offender claims not to have a license. NHTSA has not adopted either of these recommendations for essentially the same reasons it has decided not to accept the "hot file" concept.

#### (d) CMVSA Disqualifications

Under section 205 of the NDR Act of 1982, each participating State is required to transmit to the NDR reports regarding

individuals who are convicted of certain serious offenses or who lose or are denied driving privileges "for cause". In the NPRM, NHTSA proposed to define the term "for cause" to mean that the action was based on any violation listed in appendix A, an abbreviated listing of the violation codes included in the American National Standards Institute (ANSI) Standard D-20.1 (Data Element Dictionary for Traffic Records Systems). The NDR has been using this abbreviated list for the past twelve years to categorize the adverse actions submitted by States under the old NDR system. Three States and AAMVA recommend that pointer records for CDL disqualifications and withdrawals be placed on the NDR file. They assert that these disqualifications and withdrawals should be reported even if the individual retains his or her non-commercial driving privilege (such as when a person operates a commercial motor vehicle with a blood alcohol concentration of .04).

NHTSA agrees with this recommendation. In fact, the NPRM specifically stated that the agency was proposing to consider certain codes pertaining to commercial drivers to be "for cause", and appendix A of the NPRM included a number of violation codes which pertain to commercial driver disqualifications and withdrawals. As additional violation codes are established relating to commercial or non-commercial drivers, NHTSA will add them to the list by issuing Federal Register notices, if they are determined by the agency to be "for cause".

#### (e) All Adverse Actions

AAMVA and the NDRAC recommend that all revocations, suspensions, cancellations, and denials should be reported to the NDR without exception. They urge the agency to consider any such action to have been taken "for cause." In support of this recommendation, AAMVA cites a requirement in the CMVSA of 1986 that provides that, "State[s] shall not issue a commercial driver's license to a person during a period in which \* \* \* the driver's license of such person is suspended, revoked, or cancelled." The Act does not exclude, AAMVA argues, any revocations or suspensions.

What AAMVA fails to mention, however, is that the CMVSA acknowledges specifically that the NDR maintains only those actions that were taken "for cause." Section 12009(a)(20) provides that, before issuing a commercial driver's license to a person, the State shall submit a request to the NDR for information on whether that

person "has been disqualified," "convicted of any of the offenses specified in section 205(a)(3) (of the NDR Act)" or "had a (non-commercial) license suspended, revoked, or cancelled for cause." (Emphasis added.)

AAMVA indicates that this was the other issue, upon which its members could not agree. As AAMVA points out, "Some jurisdictions feel that it is absolutely necessary that all (suspensions and revocations) be reported, others feel that some should be optional, and still others feel that those listed as optional by the second group should not be allowed at all."

NHTSA believes that the codes it has excluded from the abbreviated list (such as suspension for failure to pay insurance) are of questionable utility to those served by the NDR, and States should not be required to submit this information. If a State chooses to submit reports on individuals affected by these actions, NHTSA will not refuse to accept them; however, the agency strongly discourages their submission, since these records could result in time delays and added expense to operate the NDR with questionable returns in safety benefits.

#### (f) Driver License Status Indicator

Earlier in this final rule, NHTSA indicates that it has decided that, instead of requiring that States maintain a Driver License Status Indicator (DLSI) on the NDR system, it will require instead that each State expand its Driver Status Response capability (mandated under CDLIS) to cover both commercial and non-commercial drivers. Here, we explain the agency's rationale for this decision.

In the NPRM, NHTSA proposed to require that States maintain a driver license status indicator (DLSI) on the NDR. Originally, the rationale for maintaining the DLSI was to enable the NDR to provide an initial quick response to the State of Inquiry (SOI) so that, for example, if the SOI is interactive and the SOR is not, the SOI would not have to wait up to several days to receive the status on a driver license applicant.

Another need for the DLSI was created when the NDR Act was amended to authorize employers, the Federal Aviation Administration (FAA) and the Federal Railroad Administration (FRA) to receive NDR information. Specifically, the NDR Act states that no record will be released to these users regarding an individual that has been on file for more than three years unless the individual is still under revocation or suspension at the time of inquiry. The DLSI was needed to enable the NDR to

determine whether or not to release information that is more than three years old.

AAMVA and five States oppose this requirement, claiming that it defeats the purpose of establishing a pointer system. Since each State would have to update the DLSI, these commenters argue, its use could cause the same problems experienced in the old system: inaccurate information resulting from a dependency on States to update the NDR in a timely fashion. While NHTSA shares this concern, at the time the NPRM was published, no alternatives were readily apparent that would preclude the necessity to maintain the DLSI. However, with the development of CDLIS, another alternative has become available.

Under CDLIS, each State must have the capability, and is required, to respond interactively to driver status requests regarding commercial drivers from other States (the Driver Status Response feature). Therefore, there will no longer be a situation in which a SOI is interactive and a SOR is not. AAMVA recommends that NHTSA adapt this feature of CDLIS to the NDR. It urges that, instead of requiring that States maintain a DLSI on the NDR system, NHTSA should require that each State expand its Driver Status Response capability to cover both commercial and non-commercial drivers. A SOI could receive this information from a SOR within seconds, and NDR could access this information, also within seconds, when processing inquiries from requesters, such as employers and Federal agencies, to determine whether records on file for more than three years can be released.

This change is consistent with the pointer system concept of the NDR that inspired the 1982 Act, in that it would eliminate large volumes of State updates and the possibility of the NDR transmitting non-current information to the States. Accordingly, the DLSI requirement has been omitted in this final rule, and a new requirement has been added mandating that States expand their driver status response capability to cover both commercial and non-commercial drivers.

#### (g) Social Security Number

In accordance with section 205(b)(1)-(3) of the NDR Act, NHTSA proposed in the NPRM that records submitted to the NDR must contain certain identifying data. These data include, among other things, "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)."

AAMVA recommends instead that States should be *required* to collect the social security number (SSN), and submit it to the NDR, on the basis that the SSN is required under CDLIS. AAMVA recognizes, however, that a legislative change would be necessary to impose this requirement.

NHTSA believes that such a change is not warranted. The NDR match identification process does not use the SSN to recognize probable identification. This process has been used successfully for many years under the old NDR system, and the PDPS pilot test program, which used the NDR match identification process, demonstrated its accuracy.

#### 2. Dual Record Reporting Requirement of the Transition Procedures

As discussed earlier in this final rule, the agency's NPRM proposed that the transition period from the old NDR to the new PDPS will continue until the Register system is "fully electronic," and this will occur when each State that has notified the agency of its intention to participate, is in fact participating in accordance with all statutory and regulatory conditions. The proposed regulation did not establish a date certain by which this must occur.

Three States and AAMVA recommend, however, that NHTSA should establish a fixed future date by which all States must be converted and Delaware and AAMVA recommend that this date be set at April 1995. NHTSA has accepted this recommendation.

In the NPRM, NHTSA explained that, during the transition period, in order to provide full service to all States, the agency's transition regulation (23 CFR part 1325) requires that PDPS States must transit to the NDR both pointer records and records containing the full substantive adverse action data. Under that regulation, PDPS States must continue to submit dual records until 40 percent of the States are operating under PDPS, or until the establishment of a fully electronic Register system, whichever occurs first. After that time, PDPS States will be required to transmit pointer records only.

AAMVA and three States commenters argue that the dual record reporting requirement penalizes those States that become early participants and removes the incentive to convert early. AAMVA proposes that if 20 States could convert to the PDPS simultaneously, the dual reporting requirement could be avoided. Idaho argues with this approach.

NHTSA established the dual record reporting requirement based on a desire to maintain the current level of service to the non-PDPS States during the early stages of what we expected could be a rather prolonged implementation period. We recognized that this requirement would impose some burdens on the PDPS States and, therefore, provided that dual reporting would be discontinued once 40 percent of the States had converted to PDPS.

In view of the current prospects for an accelerated conversion schedule, however, due largely to the mandatory requirement that States check the NDR under the CMVSA of 1986 and the cutoff date established in this final rule, the agency agrees that there is no longer a need to require dual reporting. Appropriate changes to this and the Transition regulation (Parts 1327 and 1325, respectively) have been included in this final rule.

AAMVA includes one condition with its recommendation. It urges that NHTSA should permit jurisdictions to "phase-in" their PDPS implementation, as they can under CDLIS. For example, AAMVA indicates that States can implement an "Inquiry only" capability under CDLIS before they are fully participating. NHTSA's regulation would permit this type of "phase-in," provided that the State is fully participating (or has been granted an extension) by April 30, 1995.

The State of Missouri seems to believe that the transition period will end when 40% of the States are participating under PDPS. Based on this belief, the State expressed concern that 60% of the States could be left without any NDR support and recommends that service must be provided until at least April 1, 1992. Accordingly, NHTSA would like to provide clarification and dispel the misunderstanding that Missouri and others may have.

Under the agency's proposal, published in the NPRM, PDPS States would have been required to submit dual (pointer and substantive) records until such time as 40% of the States were participating in PDPS. After that time, those States would submit only pointer records. All States (PDPS and non-PDPS) would be served by the NDR during the transition period, which would end when each State that has notified the agency of its intention to participate, is in fact participating in accordance with all statutory and regulatory conditions.

These requirements have been changed in this final rule. PDPS States will not be required to submit dual records. Non-PDPS States will submit

substantive records to the NDR; PDPS States will submit pointer records. All States (PDPS and non-PDPS) will be served by the NDR during the transition period, which will end when each State that is participating in the NDR has been certified by the agency as a participating State under part 1327, or on April 30, 1995, whichever occurs earlier. After that time, States that have not been certified or granted an extension will not be permitted to participate at all. The NDR will neither serve nor accept records from a non-participating State, unless it has been granted an extension of time.

Iowa sought assurances, in its comments, that the Rapid Response System (RRS) will continue to be available until all States are participating in PDPS. RRS is a service currently provided by NDR, which permits non-PDPS States to communicate with the NDR interactively. This service will in fact continue to be provided during the entire transition period.

### *3. State of Inquiry Function on State's Own Behalf regarding First-time Non-minimum Age Driver License Applicants*

#### *(a) Inquiries Prior to Issuance*

In the NPRM, NHTSA proposed that all States be required to, at a minimum, submit inquiries on all original non-minimum age applicants for licenses. AAMVA, California and Delaware recommend that the regulation specifically require that these inquiries be made prior to the issuance of a license. NHTSA accepts this recommendation and has incorporated it into this final rule.

#### *(b) Driver Licensing and Driver Improvement Purposes*

The agency proposed that States would be permitted, but not required, to submit other types of inquiries to the NDR, including requests for driver licensing and driver improvement purposes. In the NPRM, NHTSA proposed to define the term "driver licensing purposes" to mean requests made by State chief driver licensing officials to determine if individuals applying for original, renewal, temporary or duplicate licenses have had their driving privileges withdrawn in other States. We proposed to define the term "driver improvement purposes" to include requests submitted by State 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. We

explained that this would include information requests related to court sentencing, i.e., requests on behalf of State court officials to determine, during sentencing proceedings for motor vehicle-related violations, whether the individual has license revocations, suspensions, convictions, or denials in other States. We requested comments on whether the public believes the agency should accept any additional types of NDR inquiries under the "driver improvement" category.

No such comments were received in response to the NPRM; however, one individual submitted comments prior to publication of the NPRM recommending that State police be authorized to request NDR information to be used in court proceedings. The agency agrees that the information should be available for use in these proceedings, but does not agree that State police need access in order to provide it to the court. We believe that NDR information should be obtained for this purpose through the chief driver licensing official of the State. Accordingly, no changes have been made to these proposed definitions.

#### *(c) Interactive Communication*

Although it does not affect this regulation, and was not raised in the NPRM, AAMVA and five States submitted comments regarding the mode in which transactions will be processed. Due to cost and system capacity, NHTSA has said, in the past, that NDR interactive service will be limited to original inquiries. Renewals, duplicates, and other inquiries, as well as updates, must be submitted in batch mode.

California and Ohio recommend that all States should be required to submit inquiries interactively. The other commenters urge that NHTSA should allow States to choose the mode (batch or interactive) in which their transactions (both inquiries and updates) will be processed, depending on their needs (such as for renewal inquiries for CDL applicants). Based on the fact that States have varying needs, AAMVA recommends that NHTSA should work out a separate agreement with each jurisdiction regarding the use of the interactive inquiry capability. AAMVA and Wisconsin point out that, even in instances where the NDR does not process a transaction, such as an update, interactively, it could receive the transaction in that mode, send an acknowledgement interactively and then process the update in whatever mode it deems appropriate. Accordingly, AAMVA suggests that these separate NHTSA/State agreements should specify the transactions that will be

received interactively and those that will be processed interactively.

NHTSA agrees that interactive communication between the States and the NDR should be promoted and used whenever it is feasible to do so. In addition, NHTSA recently negotiated new contractual arrangements for NDR computer processing, which has resulted in significant reductions in transaction costs, making the cost of interactive communications less of an issue. Accordingly, NHTSA accepts the recommendation to work out separate agreements with each State regarding interactive and batch communication of data.

### *4. State of Inquiry Function on Behalf of Other Authorized Users*

#### *(a) Serving as a Middleman*

NHTSA explained, in its NPRM, that section 206(b) of the NDR Act authorizes the following parties to receive NDR information: (1) The National Transportation Safety Board (NTSB) and the Federal Highway Administration (FHWA) for accident investigation purposes; (2) employers and prospective employers (including Federal agencies) regarding motor vehicle operators; (3) the Federal Aviation Administration (FAA) regarding any individual who has received or applied for an airman's certificate; (4) the Federal Railroad Administration (FRA) and employers or prospective employers regarding railroad locomotive operators; and (5) individuals who wish to learn what information about themselves, if any, is in the NDR file.

To receive NDR information under this section, however, the Act requires that these "transportation safety" requests must be submitted to the Register through a participating State. Accordingly, NHTSA proposed to define the term "transportation safety purposes" to include these requests and proposed to require that participating States provide for and establish routine procedures and forms to accept requests for NDR information from these other authorized NDR users.

AAMVA, the NDRAC and three States assert that, while non-Federal users should request NDR information through a participating State, Federal agencies should be authorized to submit requests directly to the NDR. Other States are opposed to their being required, as New York puts it, "to serve as a 'middleman'" for any of these requests at all. Some of these commenters, however, suggest that it might be feasible to allow States to

serve in this role on a voluntary basis. They indicate that the collection of fees for the service might serve as an incentive.

The requirement that non-State users of the NDR must submit requests through participating States was included in the Act to address the concerns by some groups regarding the privacy rights of individuals. NHTSA is sympathetic, however, to the views expressed in these comments and mindful of the burdens that may be imposed on the States. Since the Federal agencies authorized to receive NDR information are subject to the restrictions in both the NDR Act (section 208), and the Privacy Act of 1974 (5 U.S.C. 552a), NHTSA believes there is little reason to require that these users submit their requests through participating States. They should be authorized instead to request information directly from the NDR. Such authorization, however, must be granted by legislative amendment. NHTSA supports and has taken steps to initiate such a change. This legislative amendment has been incorporated into the Department's proposed "Surface Transportation Assistance Act of 1991," which was submitted to Congress on February 13, 1991. The amendment would allow each Federal user authorized to receive information from the NDR to request that information from the Register directly, rather than through a participating State. It would not otherwise expand the government's ability to receive NDR information. Until a legislative change is enacted, however, the regulation will stand, as proposed.

#### (b) Previous Arrangements with NTSB and FHWA

NHTSA proposed, in the NPRM, that before the NDR is fully electronic, requests from NTSB and FHWA must be submitted through "the State with which previous arrangements have been made." Once the NDR is fully electronic, these requests must be submitted through "the participating State with which previous arrangements have been made." Based on these statements, Missouri asks "Can it be assumed that the SOI function on behalf of NTSB and FHWA, if not previously arranged for, is not required in the future for States without previous arrangements?"

Both NTSB and FHWA have made arrangements with the District of Columbia, and are currently submitting their requests for NDR information through that jurisdiction. If, for whatever reason, these arrangements were to end, these agencies would have to make arrangements with another jurisdiction. Similarly, if the District of Columbia is

not a participating State when the NDR becomes fully electronic, then NTSB and FHWA would have to make arrangements with a participating State. This could be any participating State.

#### (c) U.S. Coast Guard

In its comments, NTSB recommends that the U.S. Coast Guard and employers and prospective employers of merchant mariners should be authorized to receive NDR information in connection with their employment as operators of marine vessels. On August 18, 1990, Congress enacted the Oil Pollution Act of 1990, Public Law 101-380, which authorizes the Secretary of the department in which the Coast Guard is operating to receive NDR information regarding certain individuals. It does not authorize employers or prospective employers of these individuals to receive this information. NHTSA has revised this final rule to implement this change.

#### (d) Records To Be Released

Under the NDR Act of 1982, employers and prospective employers of motor vehicle and railroad operators, FAA, FRA and now Coast Guard may receive NDR information, but only regarding certain individuals and only when the request is initiated by that individual. The request must be made through a participating State. In the NPRM, NHTSA proposed that States must provide for and establish routine procedures and forms to accept these requests, and provided that the request could be made either by the individual or by the authorized user if the individual first consented to the search in writing. The request or the written consent form (whichever is used), we proposed, would have to contain certain elements, the first of which was identification of the records to be released.

Idaho and New York express concern about this element and state that, in the words of New York, "loose interpretation could allow the individual to specify that certain segments of the driving record not be released" and, in the words of Idaho, "State law dictates what information may be released". By proposing in the NPRM that the individual "identify the records to be released," the agency intended to require that the individual consent to the release of records from the NDR, as opposed to another system of records. In this final rule, NHTSA has revised the regulation to read: "state that NDR records are to be released", to prevent any misinterpretation of this provision.

#### (e) Requests for Individuals

In accordance with section 206(b) of the NDR Act, NHTSA's proposed regulation provided that participating States must provide for and establish routine procedures and forms to accept requests for NDR information from certain authorized NDR users. One such group of users are individuals, who are authorized by the Act to request NDR information through a State chief driver licensing official to determine whether the Register is providing any data regarding them and the accuracy of any such data. Individuals continue to be authorized also, by the Privacy Act of 1974, to request this information from the NDR directly.

New York asserts, "This is currently an NDR responsibility. Any attempt to transfer this responsibility to the individual States is unacceptable." This provision of the regulation is not intended to transfer the responsibility for these file checks to the States. The Act simply provides another means by which individuals can check the NDR for records pertaining to themselves. Individuals will still be authorized by the Privacy Act to submit requests for file checks directly to the NDR.

Arkansas seems to believe that the NPRM would allow individuals to receive State driver records directly from the NDR and objects, on that basis, that "driver information has always been available from the state of record." This comment is based on a misunderstanding of PDPS. Under PDPS, individuals may submit requests to the NDR (either directly or through a participating State) to determine whether the Register is providing any data regarding them and the accuracy of any such data. These individuals will not receive the State record, however, from the NDR; under PDPS, they will receive only the pointer record. To receive the actual driver record, individuals must continue to request this information from the State of Record identified by the NDR.

#### 5. State of Record Function and Responses to Driver License Abstract Requests

NHTSA proposed in the NPRM that States must serve as a State of Record (SOR) to participate in the new NDR. As a SOR, the proposal provided that a State must: (1) implement the necessary computer system and procedures to respond to requests for driver record information; (2) provide driver history summary information from its file to any SOI upon receipt of a request from either the SOI or the NDR; and (3)

forward a driver license abstract (DLA, or full motor vehicle record) to any SOI upon receipt of a request from either the SOI or the NDR, and to other authorized users upon receipt of a request directly from the user.

#### (a) Driver History Summary

As discussed earlier, in this final rule, a number of commenters strongly advise that the new NDR should match CDLIS operations as closely as possible. They also advise that certain NDR functions should be eliminated since AAMVAnet enables these functions to be performed without the NDR's involvement. Specifically, they suggest that CDLIS's Driver History Record (DHR) should replace NDR's Driver History Summary (DHS) and NDR should no longer initiate the request for this information from the SOR or relay the information to the SOI. Adoption of these changes, the commenters urge, would align the NDR process more closely with that of CDLIS already in place in most States, and make conversion to the new NDR much simpler.

The agency has decided to accept these recommendations. Accordingly, the NDR will not obtain the DHS from the SOR and relay it to the inquiring State. Rather, the SOI may request the DHR from the SOR directly (not through NDR). The SOR will be required to respond, directly to the SOI. Appropriate regulatory changes have been made.

The SOR will also be required to respond, as discussed in greater detail earlier in this final rule, to driver status requests. While the agency is requiring that States provide driver status responses interactively, however, we are not imposing such a requirement with regard to DHR responses. AAMVA points out that some States have difficulty responding interactively to requests for information as lengthy as the DHR, as some do not keep a person's driving history current and readily available for transmission. AAMVA recommends that the regulation require that the SOR respond to the DHR request within a certain number of days of the request (perhaps up to 72 hours). Since the NDR will no longer be directly involved in the exchange of DHR information, we believe it would be inappropriate for us to establish a response time requirement in this rule. However, we strongly encourage that States respond within a 72 hour period.

#### (b) Driver License Abstract

AAMVA requests that NHTSA require jurisdictions to develop and maintain the capability to provide

Driver License Abstracts (DLA's). NHTSA believes it is outside of our statutory authority to require that States respond to requests for DLA's not resulting from a match with the NDR. However, by requiring States to respond to requests for DLA's when there is an NDR match, a requirement proposed in the NPRM and adopted in this final rule, States will be required to develop and maintain the capability to provide the DLA. We encourage States to respond to all authorized requests for DLA's, whether or not they result from a match with the NDR.

If a State has received a match from the NDR in response to a request on its own behalf, that State will continue to be able to submit a request through the NDR for the SOR to send a DLA. States will also have the option of submitting these requests directly.

#### Conditions and Procedures for Other Authorized Users of the NDR

The NPRM explained that the NDR Act of 1982 provides that certain non-State users are authorized to receive NDR information. These users were identified as: (1) NTSB and FHWA for accident investigation purposes; (2) employers and prospective employers regarding motor vehicle operators; (3) FAA regarding any individual who has received or applied for an airman's certificate; (4) FRA and employers or prospective employers regarding railroad locomotive operators; and (5) individuals who wish to learn what information about themselves, if any, is on the NDR file. The NPRM proposed that certain conditions be met by these other authorized users of the NDR. NHTSA received comments pertaining to this section of the NPRM.

##### 1. U.S. Coast Guard

As mentioned previously, the NTSB recommends that the U.S. Coast Guard and employers and prospective employers of merchant mariners should be authorized to receive NDR information in connection with their employment as operators of marine vessels. On August 18, 1990, Congress enacted the Oil Pollution Act of 1990, Public Law 101-380, which authorizes the Secretary of the department in which the Coast Guard is operating to receive NDR information regarding certain individuals. It does not authorize employers or prospective employers of these individuals to receive this information. This portion of the agency's regulation has, therefore, been revised to implement this change.

#### 2. American Trucking Associations (ATA)

The ATA expresses several concerns regarding this portion of the agency's proposal.

##### (a) Prior Written Consent

ATA seemed to be unaware, prior to its review of NHTSA's NPRM, that the prior written consent of the individual would be required before an employer or prospective employer could receive NDR information. ATA suggests that this condition could, "open the way to effectively block access to NDR information if there should be a widespread concerted action by drivers and applicants to decline to sign the necessary authorization \* \* \* (and) could lead to the diminution of the pool of driver-applicants."

NHTSA recognizes that this requirement could cause a certain amount of inconvenience to employers in the event drivers object to the NDR search. However, employers do have several options. For example, as provided in the NHTSA, individuals may submit their requests directly to the chief driver licensing official in their State, if they do not wish to consent to have their employer request the search. Another option that may be exercised by the employer, although it is one that we do not encourage, is to waive the NDR file check completely. NHTSA is without authority, however, under the NDR Act of 1982 and the Privacy Act of 1974, to permit employers to receive NDR information in the absence of an individual's request or prior written consent.

ATA also recommends that, if prior written consent from individuals is to be required, a standard format should be developed for employers to use. NHTSA agrees, and would encourage employers to standardize the format to be used for this purpose. The elements that must be contained in any such form are specified in this final rule.

##### (b) State in Which Individual is Licensed

Section 206(b)(2) of the NDR Act stipulates that any individual who is employed or who seeks employment as a driver of a motor vehicle may request the chief driver licensing official of the participating State "in which the individual is employed or seeks employment" to transmit information pertaining to him or her to the individual's employer or prospective employer. In the NPRM, NHTSA proposed to define the individual's State of employment as "the State in which the individual is licensed to drive a

motor vehicle," ATA urges that the definition of this term should be broadened to permit employers to request NDR information through any participating State, rather than just through the State in which the individual is licensed.

The definition for the term "State of employment" was first developed by the agency, based on the recommendations of the NDRAC, for use in the PDPS pilot test program. The agency reasoned that the "State of employment" would be required to verify the identity of individuals before processing a request for NDR information, and the State of licensure would be in the best position to make such verification. It was, therefore, believed that this definition would provide the greatest protection against improper disclosures. None of the pilot States objected to the definition in their written evaluations of the pilot test program, and NHTSA continues to believe that this is the best definition for the term. It has not been changed in this final rule.

#### (c) Substantive Information

The NPRM provided that, if there has been a match, employers will receive from the NDR, through a State, a response which includes the identification of the individual, the State where the adverse action information is maintained and the current license status of the individual.

ATA urges that employers should be authorized to receive also the detailed motor vehicle record, so that multiple inquiries need not be made. Under PDPS, however, the NDR will not contain this substantive information. It must be obtained instead from the SOR. In its NPRM, NHTSA had proposed that NDR would request limited substantive information (DHS) on behalf of a SOI and relay the response, without interception. As discussed earlier in this final rule, however, the agency has decided to abandon this practice. Accordingly, all users of the NDR, States and non-States alike, must submit a separate request for the substantive information.

In addition, as discussed earlier in this final rule, States will no longer be required to maintain driver license status information on the NDR, and NDR pointer records will no longer contain this information. Accordingly, under this final rule, employers (and other non-State users of the NDR) will not receive status information. The pointer record, that they will receive, will contain only identifying information concerning the individual and the State where the adverse action information is maintained.

#### Privacy Considerations

In the NPRM, the agency stated that since most of the NDR data are already in the public domain at the State level, and consequently are not highly sensitive, an intensive degree of security is not required to protect individuals' right to privacy. Two States took exception to these statements. New York indicates that its medical information is not divulged publicly, and Arkansas states that its driver records and abstracts may be furnished only to certain parties authorized to receive them under State law. Arkansas recommends that the rule should be amended to permit the release of this information only to those individuals who are authorized to receive it under the State law where the records are maintained.

With regard to New York's comment, NHTSA did not state, in its NPRM that all State records are publicly available. Rather, we stated that most NDR information is in the public domain. The NDR PDPS will not contain medical, just pointer, information. With regard to the comments of the State of Arkansas, it is our view that each of the parties authorized to receive NDR information under the NDR Act of 1982, would also be authorized to receive driver records and abstracts under the Arkansas statute. Each of these parties is either a government agency, an employer of a driver or a person who has been authorized in writing to receive the record by the driver. Accordingly, NHTSA believes Arkansas' suggested change to the rule is unnecessary.

In addition, NHTSA wishes to remind these States and others concerned with the privacy rights of individuals identified in the NDR, that the Register is a Privacy Act system of records. Therefore, whatever privacy considerations are warranted will be enforced, and appropriate security measures will be required. As mentioned in the agency's NPRM, the shift from the current NDR system to PDPS will provide additional protections to the privacy rights of individuals, for example, by reducing the size of the database from a full substantive record to a pointer record file and by changing custody of the data from the Federal government to the States.

#### Economic and Other Impacts

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291, but is "significant" within the meaning of Department of Transportation regulatory policies and procedures. In its NPRM, the agency

indicated that it anticipates that, to participate, some States will have to upgrade their computer systems, but that this upgrade may be for purposes broader than their participation in the NDR, e.g., the Commercial Driver's License Information System for which interactive communication is required.

In its comments, Maryland indicates that it will require additional data processing upgrades to participate in PDPS, over and above those adopted to comply with CDLIS. Arizona states that, while its implementation of the CDLIS will make conversion to PDPS less costly, it expects to incur additional programming, personnel and system line costs of between \$200,000 and \$300,000.

In this rule, as discussed in detail above, NHTSA has made a number of changes to its original proposal in an effort to make the new NDR as compatible as possible with CDLIS. These changes should make the conversion to the new NDR much simpler for the States, simplify NDR operations, and reduce State conversion and operating costs. In addition, NHTSA intends to provide technical assistance to the States, which should also reduce their expenses. It was suggested by AAMVA and others that the agency should establish a "Help Desk," as FHWA did to provide assistance in connection with CDLIS. AAMVA also suggested that NHTSA should hold a workshop on the final rule after it is issued, to discuss the rule and its impact on the community. NHTSA appreciates and will consider these suggestions. We will make a decision regarding the specific type of assistance to offer based on the availability of funds and the needs of the NDR community.

Arkansas suggests that there will be an additional financial impact of this rule. It seems to believe that the NDR will be providing driver abstracts and records directly to authorized users of the system, free of charge, which will result in lost revenues for the State. This comment is based on a misunderstanding of the manner in which the NDR will operate. The NDR will not release, or even have access to, this driver information. The NDR will retain and disclose only pointer records. To obtain driver abstracts and records, authorized users will still be required to submit requests to States of Record, and this rule does not prohibit a State from charging user fees. The agency does not foresee that any revenues will be lost by participating in the NDR program.

Because there will not be a significant economic effect from this rule, a regulatory evaluation is not necessary

In accordance with the Regulatory Flexibility Act, the Agency has evaluated the effects of this rule on small entities. Based on that evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. The procedures set forth in the rule apply primarily to State driver licensing agencies of States that participate in the NDR. While the rule also provides procedures for employers of motor vehicle and locomotive operators, some of which may be small entities, it does not place any mandatory requirements on these entities to utilize the services offered by the NDR. In addition, the economic impacts to these entities would amount only to the minimal cost of sending inquiries to and receiving responses from the NDR through participating States.

The agency has also analyzed this action for the purpose of the National Environmental Policy Act. The agency has determined that this action will not have any effect on the human environment.

#### Federalism Assessment

The agency has analyzed this action under the principles and criteria of Executive Order 12612 and has determined that the rule does not have any federalism implications. The NDR does not interfere or preempt State licensing functions. Rather, it provides a service which enhances the State's ability to administer these functions. In fact, the States have been among the NDR's strongest supporters.

#### Information Collection Requirements

The reporting requirements in this rule are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) is 5 CFR part 1320. Accordingly, these requirements have been submitted to and approved by OMB, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq). These requirements have been approved through June 30, 1991; OMB 2127-0001.

#### List of Subjects in 23 CFR Parts 1325 and 1327

Driver licensing, Driver records, Transportation safety, National Driver Register, Highway safety.

In accordance with the foregoing, title 23 of the CFR is amended as follows:

#### PART 1325—TRANSITION PROCEDURES FROM CURRENT TO NEW NATIONAL DRIVER REGISTER

1. The authority citation for part 1325 is revised to read as follows:

Authority: Pub. L. 97-364, 96 Stat. 1740, as amended (23 U.S.C. 401 note).

##### § 1325.2 [Amended]

2. Section 1325.2 is amended by adding after the phrase "fully electronic Register system" the following: ", but not later than April 30, 1995".

##### § 1325.3 [Amended]

3. Section 1325.3 is amended by adding the word "and" before the phrase "color of eyes" and removing ", and color of hair" after that phrase in paragraph (b) (1); adding the word "and" at the end of paragraph (b)(2); replacing the word "and" at the end of paragraph (b)(3) with the symbol "." and removing paragraph (b)(4).

4. Section 1325.3 is amended by revising paragraph (f) and adding paragraph (g) as follows:

##### § 1325.3 Definitions.

\* \* \* \* \*

(f) *Fully Electronic Register System*—NDR system in which all States that are participating in the NDR have been certified by the agency as participating States.

(g) *Participating State*—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 the NDR Act of 1982 and § 1327.5 of this part.

5. Section 1325.4 is amended by removing paragraph (a)(2) and redesignating paragraph (a)(1) as paragraph (a) and replacing the phrase "the adverse action" in paragraph (c)(1) with the words "driver status". The section is further amended by revising paragraph (d)(2) and the second sentence of paragraph (e)(2) as follows:

##### § 1325.4 General transition procedures.

(d) \* \* \*

(2) When a match occurs with a record on file from a PDPS State, the non-PDPS State of inquiry will receive the pointer record response from the NDR.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \* Requests from PDPS States may also be for the purposes of State driver improvement or transportation safety, as those terms are defined in 23 CFR 1327.3.

6. A part 1327 is added as set forth below.

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

Sec.

1327.1 Scope.

1327.2 Purpose.

1327.3 Definitions.

1327.4 Notification procedures.

1327.5 Conditions for becoming a participating State.

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

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 and Withdrawals

Appendix B to Part 1327—OMB Clearance

Authority: Pub. L. 97-364, 96 Stat. 1740, as amended (23 U.S.C. 401 note); delegation of authority at 49 CFR 1.50.

##### § 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) *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).

(b) *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.

(c) *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.

(d) *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.

(e) *Driver Status Response* means a response which indicates whether a driver currently holds a valid license.

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

(g) *Fully Electronic Register System* means an NDR system in which all States that are participating in the NDR have been certified by the agency as participating States.

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

(i) *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.

(j) *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.

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

(l) *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 the NDR Act of 1982 and § 1327.5 of this part.

(m) *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).

(n) *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.

(o) *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).

(p) *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.

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

(r) *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.

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

(t) *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.

(u) *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.

(v) *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.

(w) *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.

#### § 1327.4 Notification procedures.

(a) *Participation*. (1) The chief driver licensing official of a State that wishes to participate in the NDR under the Problem Driver Pointer System (PDPS) shall send a letter to the National Highway Traffic Safety Administration (NHTSA) certifying that the State wishes to be considered a participating State, that it intends to be bound by the requirements of section 205 of the NDR Act of 1982 and § 1327.5 of this part, and what conversion steps, if any, it has already completed.

(2) Within 20 days after receipt of the State's notification, NHTSA will acknowledge receipt and provide detailed instructions to the State of the steps to be taken for converting and operating under the PDPS.

(3) NHTSA will establish a schedule for providing assistance to the States during their conversion process. The agency will assign priorities to the States based on the order in which complete notifications are received. In the event two or more complete notifications are received on the same date, the agency will assign priorities based on those States' relative stage of development towards completing the conversion process. A State's stage of development will be determined based on which one of the following groups it falls into, listed in descending order of priority, i.e., the first group will receive the highest priority, the second group will receive the next highest priority, etc.

(i) States that participated in the PDPS pilot test program (North Dakota, Ohio, Virginia and Washington);

(ii) States that have implemented the Rapid Response System;

(iii) States that have implemented the Commercial Motor Vehicle Safety Act (CMVSA) requirements and intend to participate in the NDR interactively;

(iv) States that have implemented the CMVSA requirements and intend to participate in the NDR using remote job entry;

(v) States that have not progressed to one of the above stages.

(4) The chief driver licensing official of each State that has notified the agency of its intention to become a participating State will, at such time as it has completed all conversion steps, certify this fact to the agency.

(5) Upon receipt, review and approval of certification from the State, NHTSA shall certify the State as a participating State under PDPS.

(b) *Termination or cancellation*. (1) If a State finds it necessary to discontinue participation, the chief driver licensing official of the participating State will

notify the agency 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 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 aforementioned 30-day period, NHTSA will send a letter to the chief driver licensing official cancelling its certification.

(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 (a)(1) and (4) of this section.

(7) NHTSA will re-certify a State as a participating State upon determining that the State complies with the statutory and regulatory requirements for participation, in accordance with paragraphs (a)(2), (3) and (5) of this section.

(c) *After transition period ends.* (1) After the transition period ends, only participating States 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 at that time, unless the agency has granted the State an extension of time in accordance with the remainder of this paragraph.

(2) If a State will not be certified as a participating State by April 30, 1995, but wishes to continue participating in the NDR, it may request an extension of time. The State request shall:

(i) Be submitted, by February 28, 1995, to the Office of Chief Counsel, NCC-30, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; and

(ii) Set forth the reasons for the request, the length of the extension requested and a plan showing how conversion will be completed by the proposed extension deadline.

(3) Upon receipt and review of the request, NHTSA will notify the State in writing of the agency's decision to grant or deny the request.

(4) A request for a renewal of an extension of time must be received by the agency no later than 30 days prior to the termination of the extension of time granted by the agency. A request for a renewal of an extension of time must meet the same requirements as the original request for an extension of time.

(5) If a request for a renewal of the extension of time which meets the requirements of § 1327.4(c)(2) is filed, the extension of time will continue until a decision is made on the renewal request.

#### § 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) 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.

(3) 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.

(4) 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 the NDR for each first-time, non-minimum age driver license applicant before issuing a license to the applicant.

(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.

(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 licensing 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) 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) *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.

#### § 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.

(b) *Employers or prospective employers of motor vehicle operators (including Federal Agencies).* (1) To initiate an NDR file check, the individual employed or seeking employment as a motor vehicle operator shall either:

(i) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of the participating State in which he or she is licensed to operate a motor vehicle in accordance with procedures established by that State for this purpose; or

(ii) Authorize, by completing and signing a written consent, his or her employer/prospective employer to request a file check through the chief driver licensing official of the participating State in which the individual is licensed to operate a motor vehicle in accordance with the procedures established by that State for this purpose.

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

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

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

(iii) Be signed and dated by the individual (or legal representative as appropriate);

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

(v) 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.

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

(4) 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.

(c) *Federal Aviation Administration.*

(1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall either:

(i) 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 the procedures established by that State for this purpose; or

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

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

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

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

(iii) Be signed and dated by the individual (or legal representative as appropriate);

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

(v) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the FAA 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.

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

(4) 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 for any action against the individual.

(d) *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 either:

(i) 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 the procedures established by the State for this purpose; or

(ii) Authorize, by completing and signing a written consent, the FRA or his or her employer/prospective employer, as applicable, to request a file check through the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose.

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

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

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

(iii) Be signed and dated by the individual (or legal representative as appropriate);

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

(v) 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 or the FRA 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.

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

(4) In the case of a match (probable identification), the FRA or the employer or 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 for any action against the individual.

(e) *U.S. Coast Guard.* (1) To initiate an NDR file check, the individual who holds or who has applied for a license or certificate of registry, or a merchant mariner's document, shall either:

(i) 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 the procedures established by that State for this purpose; or

(ii) Authorize, by completing and signing a written consent, the U.S. Coast Guard to request a file check through the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose.

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

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

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

(iii) Be signed and dated by the individual (or legal representative as appropriate);

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

(v) Specifically state that the NDR identifies probable matches that require inquiry for verification; that it is recommended, but not required, that the U.S. Coast Guard 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.

(3) 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.

(4) 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 a basis for any action against the individual.

(e) 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 appropriate) 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.

(f) *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).

(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.

#### 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 and Withdrawals

##### Code

- DI Driving While Intoxicated Violations Pertaining to Intoxicants
- DI1 Driving while under the intoxicating influence of alcohol, narcotics, or pathogenic drugs.
- DI2 Driving while under the intoxicating influence of medication or other substances not intended to produce intoxication as a result of normal use.
- DI3 Refusal to submit to test for alcohol after arrest for driving while intoxicated or suspicion of intoxication.
- DI4 Illegal possession of alcohol or drugs in motor vehicle.
- DI5\* Administrative per se.
- DI6\* Driving while impaired.
- DI7\* Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.
- DS Disability
- DS1 Inability to pass one or more tests required for driver license.
- DS2 Operating a motor vehicle improperly because of physical or mental disability.
- DS3 Failure to discontinue operating vehicle after onset of physical or mental disability (including uncontrollable drowsiness).
- FA Fatality
- FA1 Violation of a motor vehicle law resulting in the death of another person.
- FE Felony
- FE1 Using a motor vehicle as the device for committing a felony.
- FE2 Using a motor vehicle in connection with a felony.
- FE3 Using a motor vehicle to aid and abet a felon.
- FE4\* Using a commercial motor vehicle in the commission of a felony.
- FE5\* Using a commercial motor vehicle in the commission of a felony while transporting a hazardous material.
- FR Financial Responsibility
- FR1 Unsatisfied judgment.
- FR2 Failure to meet requirements for the security-following-accident provisions of the FR law.
- FR3 Failure to file future proof of financial responsibility following conviction for violation of motor vehicle law.
- FR4 Failure to file future proof of financial responsibility as required under any other provision of the FR law.
- FR5 Failure to maintain required compulsory liability insurance.
- HR Hit and Run
- HR Leaving the Scene
- HR Evading Arrest
- HR1 Failure to stop and render aid after involvement in accident resulting in bodily injury.
- HR2 Failure to stop and reveal identity after involvement in accident resulting in property damage only.
- HR3 Leaving the scene of an accident after providing aid or identity but before arrival of police.
- HR4 Evading arrest by fleeing the scene of citation or roadblock.
- HR5 Evading arrest by extinguishing lights (when lights required).
- HR6\* Leaving the scene of an accident involving a commercial motor vehicle operated by such person.
- HV\*\* Habitual Violator
- Not an AAMVA code. For NDR use only.
- MR Misrepresentation
- Contributory Violations
- MR1 Misrepresentation of identity or other facts to obtain a driver license. (If registration or title involved, see RT.)
- MR2 Displaying a driver license which is invalid because of alteration, counterfeiting, or withdrawal (revocation, suspension, etc.).
- MR3 Displaying the driver license of another person.
- MR4 Loaning a driver license.
- MR5 Obtaining or applying for a duplicate driver license during withdrawal.
- MR6 Misrepresentation of identity or other facts to avoid arrest or prosecution.
- RK Reckless, Careless, or Negligent Driving
- RK1 Heedless, willful, wanton, or reckless disregard of the rights or safety of others in operating a motor vehicle, endangering persons or property.
- RK2 Operating a motor vehicle without the exercise of care and caution required to avoid danger to persons or property.
- RK3 Transporting hazardous substances without required safety devices or precautions.
- RV Repeated Violations
- RV1 Recurrence of violations requiring mandatory action of the licensing authority as specified by law.
- RV2 Accumulation of violations resulting in mandatory action of the licensing authority because of statutory point system.
- RV3 Accumulation of violations resulting in discretionary action by the licensing authority.
- RV4 Committing serious traffic violation involving a commercial motor vehicle operated by such person.
- SP Speeding
- SP1 Contest racing on public trafficway.
- SP2 Prima facie speed violation or driving too fast for conditions.
- SP3 Speed in excess of posted maximum.

SP5 Operating at erratic or suddenly changing speeds.  
SP6\* Excessive speeding in a commercial vehicle.  
Unsatisfied Judgment (See FR)  
VR Violation of Restriction Licensing Requirements  
VR1 Driving while revoked.  
VR2 Driving while suspended.  
VR3 Driving while license denied.  
VR5 Operating without being licensed or without license required for type of vehicle operated.

VR6 Allowing an unlicensed operator to drive.

\*Recommended to AAMVA in response to a ballot on approval of a revision to the American National Standards Institute (ANSI) D20.1, "States' Model Motorist Data Base".

\*\*Habitual Violator (HV) code was added to the AAMVA Violations Exchange Code by the NDR to accommodate the many States who enacted an HV law after the AAMVA Violations Exchange Code was developed. To be adjudged a Habitual Violator normally

requires having been convicted of three major violations.

#### Appendix B to Part 1327—OMB Clearance

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

Issued on: August 13, 1991.

**Jerry Ralph Curry,**

*Administrator, National Highway Traffic Safety Administration.*

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