

normal business hours. For assistance, please contact FERC Online Support at 1-866-208-3676 (toll free) or 202-502-6652 (e-mail at [FERCOnlineSupport@FERC.gov](mailto:FERCOnlineSupport@FERC.gov)), or the Public Reference Room at 202-502-8371, TTY 202-502-8659 (e-mail at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov)).

#### V. Effective Date

75. Changes to Order No. 672 made in this order on rehearing will become effective on May 18, 2006.

#### List of Subjects in 18 CFR Part 39

Administrative practice and procedure, Electric power, Penalties, Reporting and recordkeeping requirements.

By the Commission.

**Magalie R. Salas,**  
*Secretary.*

■ In consideration of the foregoing, the Commission amends Chapter I, Title 18, *Code of Federal Regulations* to read as follows:

#### **PART 39—RULES CONCERNING CERTIFICATION OF THE ELECTRIC RELIABILITY ORGANIZATION AND PROCEDURES FOR THE ESTABLISHMENT, APPROVAL, AND ENFORCEMENT OF ELECTRIC RELIABILITY STANDARDS**

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 16 U.S.C. 8240.

■ 2. In § 39.6, paragraphs (b)(1) and (c) are revised to read as follows:

#### **§ 39.6 Conflict of a Reliability Standard with a Commission Order.**

\* \* \* \* \*

(b) \* \* \*

(1) The Transmission Organization to file a modification of the conflicting function, rule, order, tariff, rate schedule, or agreement pursuant to section 206 of the Federal Power Act, as appropriate, or

\* \* \* \* \*

(c) The Transmission Organization shall continue to comply with the function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission until the Commission finds that a conflict exists, the Commission orders a change to such provision pursuant to section 206 of the Federal Power Act, and the ordered change becomes effective.

[FR Doc. 06-3631 Filed 4-17-06; 8:45 am]

**BILLING CODE 6717-01-P**

#### **DEPARTMENT OF TRANSPORTATION**

#### **National Highway Traffic Safety Administration**

#### **23 CFR Part 1327**

[Docket No. NHTSA-05-22265]

RIN 2127-AJ66

#### **Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System Pursuant to a Personnel Security Investigation and Determination**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule announces that the amendments to the agency's National Driver Register (NDR) regulations that were published in an interim final rule to reflect changes made to the National Driver Register Act of 1982 by Section 1061 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375) will remain in effect with one minor change. The amendments authorize a Federal department or agency that investigates an individual for the purpose of determining the individual's eligibility to access national security information to request and receive information from the National Driver Register, upon request and consent of the individual. This final rule establishes the procedures for individuals to request and for the Federal department or agency to receive NDR information.

**DATES:** This final rule becomes effective on June 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** For program issues: Mr. Sean McLaurin, Chief, National Driver Register, NPO-122, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-4800. For legal issues: Mr. Roland (R.T.) Baumann III, Attorney-Advisor, Office of the Chief Counsel, NCC-113, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-1834.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

##### *A. National Driver Register*

The National Driver Register (NDR) is a central file of information on individuals whose license to operate a motor vehicle in a State has been

denied, revoked, suspended, or canceled, for cause, or who have been convicted of certain serious traffic-related violations in a State, such as racing on the highway or driving while impaired by alcohol or other drugs. The NDR was designed to prevent such individuals from obtaining a driver's license in another State, using a device known as the Problem Driver Pointer System (PDPS).

The PDPS consists of a list of problem drivers (with certain identifying information) contained in "pointer" records. These records "point" to the State where the substantive adverse records about the driver can be obtained. The PDPS system is fully automated and enables State driver licensing officials to determine instantaneously whether another State has taken adverse action against a license applicant.

##### *B. National Driver Register Act of 1982*

The NDR Act of 1982, as amended, 49 U.S.C. 30301, *et seq.*, authorizes State chief driver licensing officials to request and receive information from the NDR for driver licensing and driver improvement purposes. When an individual applies for a driver's license, for example, these State officials are authorized to request and receive NDR information to determine whether the applicant's driver's license has been withdrawn for cause or the applicant has been convicted of specific offenses in another State. Because the NDR is a nationwide index, State chief driver licensing officials need only submit a single inquiry to obtain this information.

State chief driver licensing officials also are authorized under the NDR Act to request NDR information on behalf of other NDR users for specific transportation safety purposes. The NDR Act authorizes the following entities to receive NDR information for limited transportation purposes: The National Transportation Safety Board and the Federal Highway Administration for accident investigation purposes; employers and prospective employers of motor vehicle operators; the Federal Aviation Administration (FAA) regarding any individual who holds or has applied for an airman's certificate; air carriers regarding individuals who are seeking employment with the air carrier; the Federal Railroad Administration (FRA) and employers or prospective employers of locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document. The Act also allows

individuals to learn whether information about themselves is on the NDR file and to receive any such information.

The NDR statute allows the head of a Federal department or agency authorized to receive information regarding an individual from the NDR to request and receive such information from the Secretary of Transportation. 49 U.S.C. 30305(b)(11). This provision, by its operation, affords direct access to the NDR to identified Federal departments and agencies (through NHTSA), without the need to submit an inquiry to a State chief driver licensing official. In practice, virtually all Federal departments or agencies with specific access provisions have submitted inquiries directly to NHTSA.

### C. Recent Amendment to National Driver Act of 1982

On October 28, 2004, Public Law 108-375 amended the NDR Act of 1982. Section 1061 of Public Law 108-375 allows “[a]n individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive Order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive Order, [to] request the chief driver licensing official of a State to provide [NDR] information about the individual \* \* \* to a Federal department or agency that is authorized to investigate the individual for the purpose of assisting in the determination of the eligibility of the individual for access to national security information or for Federal employment in a position requiring access to national security information.” The agency published an interim final rule on September 2, 2005 (70 FR 52296), amending the NDR regulations, 23 CFR part 1327, to incorporate procedures governing access to NDR information to assist in personnel security investigations.

## II. Procedures for Requesting and Receiving NDR Information for Personnel Security Investigations

### A. Interim Final Rule

The interim final rule provided that the procedures that a Federal department or agency performing personnel security investigations of individuals must follow to receive NDR information are similar to those followed by the FAA, the FRA, and the U.S. Coast Guard in checking their applicants for employment or certification. Specifically, the interim

final rule amended the regulatory sections at 23 CFR 1327.6 and 1327.7 to set forth procedures that a Federal agency must use to request NDR information directly from the agency.

The interim final rule explained that the Federal department or agency may not, itself, initiate a request for NDR information. Rather, the individual subject to a personnel security investigation must do so. The interim final rule stated that to initiate a request, the individual must either complete, sign and submit a request to the chief driver licensing official of a State for an NDR file search or authorize the Federal department or agency to request the chief driver licensing official to conduct the NDR file search by providing a written and signed consent. Just as in NDR requests for traffic safety purposes, the request or written consent must state that NDR records are being requested; state specifically who is authorized to receive the records; be dated and signed by the individual; and state that it is recommended (but not required) that the Federal department or agency verify matches with the state of record. Consistent with a specific statutory restriction concerning personnel security investigations, it must also state that the authorization is valid only during the performance of the security investigation.

In accordance with Public Law 108-375, the interim final rule amended the NDR regulation at 23 CFR 1327.5 to provide that a Federal department or agency also may request NDR information through a State chief driver licensing official. Since all 50 States and the District of Columbia currently participate in the NDR PDPS, the interim final rule provided procedures that States must follow to accept NDR inquiries from a Federal department or agency for personnel security investigations.

To make clear that a covered personnel security investigation is limited to an investigation for the purpose of assisting in the determination of eligibility for access to national security information or for Federal employment in a position requiring access to national security information, the interim final rule also added a definition of “personnel security investigation” to 23 CFR 1327.3.

### B. Request for Comments

The agency explained that publication as an interim final rule, without prior notice and opportunity for comment, was necessary to permit individuals subject to background investigations for security clearances to submit requests to

the NDR and Federal departments or agencies to receive NDR information as soon as possible. The changes made to the regulation in the interim final rule were minor and simply reflected the statutory amendments enacted by Public Law 108-375. The changes were nearly identical to existing regulatory procedures being followed by the States, by airmen, by seamen/merchant mariners, and by others in the field of transportation safety, which were previously subjected to notice and opportunity for comment.

Although the agency indicated that no further regulatory action was necessary on its part to make the changes effective, it provided a 60-day comment period for interested parties to present data, views and arguments on the interim final rule. Those comments were due on November 1, 2005. The interim final rule explained that the agency would consider and respond to all comments and, if appropriate, would make further amendments to the applicable provisions of 23 CFR part 1327. No comments were received. Accordingly, the final rule adopts the interim final rule subject to a single change to correct a citation error that occurred in section 1327.5(d)(2) of the regulatory text.

## III. Statutory Basis for This Rule

The final rule implements a NDR access provision mandated by section 1061 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). The NDR Act of 1982 (Pub. L. 97-364) provides general authority to issue regulations regarding access to the PDPS.

## IV. Regulatory Analyses and Notices

### A. Executive Order 12988 (Civil Justice Reform)

This action does not have any preemptive or retroactive effect. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### B. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993) provides for making determinations on whether a regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The agency has considered the impact of this action under Executive Order 12866 and determined that it is not

significant. The action is also not significant under the Department of Transportation's regulatory policies and procedures. The final rule implements amendments contained in Public Law 108-375 providing NDR access to another group of NDR individuals—individuals who are subject to personnel security investigations. Because Public Law 108-375 provides specific NDR access to Federal departments or agencies performing personnel security investigations and because the NDR Act allows Federal agencies with specific access provisions to submit them directly to the Secretary of Transportation (by delegation, to NHTSA), this action will not increase significantly the number of NDR inquiries processed by State driver licensing officials. Most, if not all, such inquiries will likely be submitted to NHTSA. Accordingly, a full regulatory evaluation is not required.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 5 U.S.C. 601-612) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. I hereby certify that the action would not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is not required.

#### D. Paperwork Reduction Act

There are reporting requirements contained in the regulation that this final rule is amending that are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The final rule does not change the reporting requirements for participating States or the procedures to be followed by individuals who request NDR information. These requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3500, *et seq.*). These requirements have been approved through July 30, 2006, under OMB No. 2127-0001.

#### E. National Environmental Policy Act

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

#### F. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. The final rule may require that some State driver licensing officials process additional inquiries submitted to them for purposes of personnel security investigations. However, because the statute allows this type of inquiry to be submitted directly to the Secretary of Transportation (by delegation, to NHTSA), we do not anticipate that States will face a significant increase in NDR requests and, therefore, in associated costs. Most, if not all, such requirements will likely be submitted to NHTSA. Accordingly, this action does not require an assessment under that law.

#### G. Executive Order 13132 (Federalism)

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

#### H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The agency has analyzed this action under Executive Order 13175, and has determined that the action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

#### I. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This final rule is not subject to E.O. 13045 because it is not "economically significant" as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

#### J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles

of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make this rulemaking easier to understand?

If you have any comments about the Plain Language implications of this final rule, please address them to the person listed in the **FOR FURTHER INFORMATION CONTACT** heading.

#### K. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory section listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this section with the Unified Agenda.

#### L. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or you may visit <http://dms.dot.gov>.

#### List of Subjects in 23 CFR Part 1327

Highway safety, Intergovernmental relations, and Reporting and recordkeeping requirements.

- Accordingly, the interim final rule amending 23 CFR part 1327, which was published at 70 FR 52296 on September 2, 2005, is adopted as a final rule, with the following change:

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

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

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

■ 2. Section 1327.5 is amended by revising paragraph (d)(2) to read as follows:

**§ 1327.5 Conditions for becoming a participating State.**

\* \* \* \* \*

(d) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

Issued on: April 12, 2006.

**Jacqueline Glassman,**

*Deputy Administrator.*

[FR Doc. 06-3663 Filed 4-17-06; 8:45 am]

**BILLING CODE 4910-59-P**

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 0

[Docket No. OAG 113; AG Order No. 2811-2006]

#### Office of the Attorney General; Establishment of the Office on Violence Against Women

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule updates the Department of Justice (DOJ) organizational regulations to reflect the establishment of the Office on Violence Against Women (OVW) as a separate and distinct office within the DOJ. OVW carries out the duties of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Pub. L. 103-322) and the Violence Against Women Act of 2000 (division B of Pub. L. 104-386), and any other duties otherwise authorized by law, or assigned to it or delegated to it by the Attorney General. This rule sets forth the duties of the Director of OVW. This rule also reflects the continued applicability to OVW of the National Environmental Policy Act of 1969 (NEPA) regulations that apply to components of the Office of Justice Programs (OJP), and which were

therefore previously applied to OVW when it was part of OJP.

**DATES:** This rule is effective April 18, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Marnie Shiels, Attorney Advisor, Office on Violence Against Women, 810 7th Street, NW., Washington, DC 20531; Telephone: (202) 307-6026; Fax: (202) 307-3911.

**SUPPLEMENTARY INFORMATION:** Section 402(3) of the 21st Century Department of Justice Appropriations Authorization Act (Pub. L. 107-273, Division A, Title IV, 116 Stat.1758 (Nov. 2, 2002)), provided for the establishment of OVW as a separate and distinct office within the Department of Justice, to be headed by a director, appointed by the President, by and with the advice and consent of the Senate. The Director of OVW is responsible, under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of OVW. Specifically, the Director is responsible for carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Pub. L. 103-322) and the Violence Against Women Act of 2000 (division B of Pub. L. 104-386), and exercising such other powers and functions as may be vested in the Director pursuant to 42 U.S.C. 3796gg *et seq.*, or by delegation of the Attorney General, 42 U.S.C. 3796gg-0-42 U.S.C. 3796gg-0b. Under the authority of the 21st Century Department of Justice Appropriations Authorization Act, the Attorney General directed the separation of OVW from OJP, its former parent organization within the Department.

Because OVW was formerly an office within OJP, regulations applicable to OJP were applicable to OVW. This rule reflects the continued applicability to OVW of certain procedures issued pursuant to the NEPA, found in 28 CFR part 61, Appendix D, which are applicable to OJP (the regulation refers to the Office of Justice Assistance, Research and Statistics, which was the predecessor to OJP), and were, therefore, applicable to OVW before it was separated from OJP. No substantive changes are being made to the regulation, and the continued applicability of the regulation to OVW will not add or remove any substantive rights or obligations of OVW grantees or cooperative agreement recipients. It is only because of the reorganization of the Department of Justice that the NEPA regulation, by its express terms, makes no reference to OVW. This rule clarifies that the NEPA regulation will continue

to apply to OVW. OVW effectuates other regulatory requirements through grant conditions with which the grantees agree to comply.

#### Administrative Procedure Act 5 U.S.C. 553

This rule is a rule of agency organization and is therefore exempt from the notice requirement of 5 U.S.C. 553(b). This rule is effective upon publication.

#### Executive Order 12866

This action has been drafted and reviewed in accordance with Executive Order 12866 Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management, and personnel as described by Executive Order 12866 section 3(d)(3) and, therefore, is not a "regulation" or "rule" as defined by that Executive Order. Accordingly, this action has not been reviewed by the Office of Management and Budget.

#### Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, Federalism, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a "major rule" as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect