Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

We have examined the impact of the rule under Executive Order 13132, and it does not have policies that have federalism implications that would 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, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, dental health, health care, health insurance, individuals with disabilities, military personnel.

Accordingly, 32 CFR Part 199 is proposed to be amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.17 is amended by revising the second sentence of paragraph (a)(3), redesignating the current paragraph (v) as (w), and by adding a new paragraph (v) to read as follows:

§ 199.17 TRICARE Program

* * * * *

(a) * * *

(3) * * * Its geographical applicability is to all 50 States (except as modified for the State of Alaska under paragraph (v) of this section) and the District of Columbia. * * *

* * * * *

(v) *Administration of the TRICARE program in the State of Alaska.* In view of the unique geographical and environmental characteristics impacting the delivery of health care in the State of Alaska, administration of the TRICARE program in the State of Alaska will not include financial underwriting of the delivery of health care by a TRICARE contractor. In addition, the Assistant Secretary of Defense (Health Affairs) may limit the availability of TRICARE Prime in the State of Alaska to those eligible beneficiaries enrolled to a military treatment facility (MTF) and to those eligible beneficiaries under TRICARE Prime Remote. All other provisions of this section shall apply to administration of the TRICARE program in the State of Alaska as they apply to the other 49 States and the District of Columbia.

* * * * *

Dated: November 19, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–28357 Filed 11–25–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2009–HA–0068; RIN 0720–AB30]

32 CFR Part 199

TRICARE; Continued Health Care Benefit Program Expansion

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule executes the expansion of section 1078a of title 10, United States Code. With the recent expansions of the Military Health System (MHS) coverage, particularly with the Reserve Component members, some MHS beneficiaries would not be eligible for CHCBP under certain circumstances that terminate their MHS coverage. This provision allows the Secretary to establish CHCBP eligibility for any categories of MHS beneficiaries who otherwise would lose MHS coverage with no continued care eligibility. This proposed rule also includes administrative changes providing clarification on some issues and updates the final rule published in the **Federal Register** on September 30, 1994, (59 FR 49817).

DATES: Comments must be received on or before January 26, 2010.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Kathleen Larkin, 703–681–0039.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 713 of the National Defense Authorization Act (NDAA) for Fiscal Year 2004 authorized coverage for uniformed services rather than armed services. Section 705 of the NDAA for Fiscal Year 2008 authorizes the expansion of persons eligible for the Continued Health Care Benefit Program (CHCBP) under Title 10 of the United States Code, section 1078a. CHCBP is the program that provides continued healthcare coverage for MHS beneficiaries who lose their MHS eligibility. It is modeled after private sector ''COBRA Coverage,'' with the individual paying 100% of the program cost plus an amount to cover administrative expenses. Currently, CHCBP provides coverage for certain active duty (AD) service members and their family members; however, it does not provide coverage for Reserve Component (RC) members who have not been on Active Duty (AD) within the last 18 months. Furthermore, coverage under CHCBP is only authorized for 18 months from either separation from AD or when coverage under the Transitional Assistance Management Program (TAMP) (10 U.S.C. 1145) ends. Selected RC members losing coverage under TRS do not receive the same extent of coverage under CHCBP as either qualified AD members or their family members.

The change to 10 U.S.C. 1078a expands CHCBP to include qualified Reservists. For members of the Selected Reserves, coverage under CHCBP would run for 18 months after the date the member ceases to be entitled to care under 10 U.S.C. 1076d. In the case of all other persons, the coverage period is 36 months after the date on which the person first ceases to be covered under the military health benefits plan or transitional health care coverage.

Administrative Changes

CHCBP was directed by Congress in section 4408 of the National Defense Authorization Act of Fiscal Year 1993, Public Law 102–484, which amended titles 10 U.S.C., by adding section 1078a. The Department of Defense (DoD) published a final rule regarding CHCBP in the **Federal Register** on September 30, 1994, (59 FR 49817).

For the majority of beneficiaries, enrollment in CHCBP is for a specific and limited period of time. Certain former spouses, however, may elect to receive coverage for as long as they wish (beyond the initial 36-month enrollment) if they meet certain criteria. The September 30, 1994, final rule may have been ambiguous regarding the criteria for continued CHCBP coverage for former spouses. If he or she meets certain criteria specified in this rule, unlimited enrollment in the CHCBP is available for a former spouse.

This proposed rule also reflects administrative changes to accurately update information regarding the current CHCBP and TRICARE programs as follows: Updates the ''CHAMPUS'' (Civilian Health and Medical Program of the Uniformed Services) program name to ''TRICARE'' when appropriate; updates the Department of Defense agency name from ''OCHAMPUS'' (the Office of CHAMPUS) to ''TRICARE Management Activity'' (TMA); replaces the reference ''Third Party Administrator'' with ''CHCBP contractor'' to make it consistent with the ''contractor'' term used for TMA programs; updates ''military health services system'' with ''Military Health System''; and updates information regarding the enrollment process both in terms of the form to be used (DD Form 2837) as well as the documentation required to verify an applicant's eligibility for enrolling.

This proposed rule updates references to other paragraphs of Section 199.20 by: Changing the title of paragraph (n) of this section ''Peer Review Organization Program'' to ''Quality and Utilization Review Peer Review Organization Program;'' changing the title of the program in paragraph (p)(2)(ii) from ''Active Duty Dependents Dental Plan'' to ''TRICARE Dental Program;'' and by adding to that same paragraph the ''TRICARE Retiree Dental Program'' under Sec. 199.22 as a special program that is not available to participants in the CHCBP. In addition, this proposed rule deletes paragraph (p)(3) in its entirety, as that subpart referenced two demonstration projects that are no longer in existence and therefore no longer available to CHCBP participants: The ''Home Health Care Demonstration'' and the ''Home Health Care-Case Management Demonstration.''

This proposed rule provides for improved administration of CHCBP by: Allowing the Department of Defense and the other Uniformed Services the ability to delegate to a designee the responsibility for notifying persons eligible to receive health benefits under the CHCBP; requiring supporting documentation on any change in status that would make a child eligible for CHCBP; allowing notification of a former spouse's potential eligibility for CHCBP to be made by the member, former member or former spouse; establishing a 14-day period within which the CHCBP contractor must advise former spouses of their potential eligibility for CHCBP; and discontinuing the requirement that CHCBP premium rates be published annually but instead requiring that the premium rates be published whenever a change in rate occurs.

This proposed rule also makes minor editorial changes in an attempt to improve understanding of CHCBP program requirements and processes, including making grammatical improvements in the text of Section 199.20.

II. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this proposed rule is not subject to any of these requirements.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)

This rule will not impose additional information collection requirements on the public. OMB previously cleared the collection requirements under OMB Control Number 0704–0364.

Executive Order 13132, ''Federalism''

We have examined the impact(s) of the rule under Executive Order 13132 and it does not have policies that have federalism implications that would 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, consultation with State and local officials is not required.

Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

This rule does not contain unfunded mandates. It does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.20 is revised to read as follows:

§ 199.20 Continued Health Care Benefit Program (CHCBP).

(a) *Purpose.* The CHCBP is a premium based temporary health care coverage program that will be available to qualified beneficiaries (set forth in paragraph (d)(1) of this section). Medical coverage under this program will mirror the benefits offered via the basic TRICARE program. Premium costs for this coverage are payable by enrollees to a Third Party Administrator. The CHCBP is not part of the TRICARE program. However, as set forth in this section, it functions under most of the rules and procedures of TRICARE. Because the purpose of the CHCBP is to provide a continuation health care benefit for the Department of Defense and the other uniformed Services (*e.g.,* NOAA, PHS, and the Coast Guard) health care beneficiaries losing eligibility, it will be administered so that it appears, to the maximum extent possible, to be part of TRICARE.

(b) *General provisions.* Except for any provisions the Director of the TRICARE Management Activity may exclude, the general provisions of § 199.1 shall apply to the CHCBP as they do to TRICARE.

(c) *Definitions.* Except as may be specifically provided in this section, to the extent terms defined in § 199.2 are relevant to the administration of the CHCBP, the definitions contained in that section shall apply to the CHCBP as they do to TRICARE.

(d) *Eligibility and enrollment.* (1) *Eligibility.* Enrollment in the CHCBP is open to the following individuals:

(i) Members of Uniformed Services, who:

(A) Are discharged or released from active duty (or full time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions;

(B) Immediately preceding that discharge or release, were entitled to medical and dental care under 10 U.S.C. 1074(a) (except in the case of a member discharged or released from full-time National Guard duty); and,

(C) After that discharge or release and any period of transitional health care provided under 10 U.S.C. 1145(a) would not otherwise be eligible for any benefit under 10 U.S.C. chapter 55.

(ii) A person who:

(A) Ceases to meet requirements for being considered an unmarried dependent child of a member or former member of the armed forces under 10 U.S.C. 1072(2)(D) or an unmarried dependent of a member of former member of the uniformed services under 10 U.S.C. 1072(2)(I);

(B) On the day before ceasing to meet those requirements, was covered under a health benefits plan under 10 U.S.C. chapter 55, or transitional health care under 10 U.S.C. 1145(a) as a dependent of the member or former member; and,

(C) Would not otherwise be eligible for any benefits under 10 U.S.C. chapter 55.

(iii) A person who:

(A) Is an unremarried former spouse of a member or former member of the uniformed services;

(B) On the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under 10 U.S.C. chapter 55, or transitional health care under 10 U.S.C. 1145(a) as a dependent of the member or former member; and,

(C) Is not a dependent of the member or former member under 10 U.S.C. 1072(2)(F) or (G) or ends a one-year period of dependency under 10 U.S.C. 1072(2)(H).

(iv) An unmarried person who:

(A) Is placed in the legal custody of a member or former member by a court or who is placed in the home of a member or former member by a recognized placement agency in anticipation of the legal adoption of the child; and

(B) Either:

(1) Has not attained the age of 21 if not in school or age 23 if enrolled in a full time course of study at an institution of higher learning; or

(2) Is incapable of self-support because of a mental or physical incapacity which occurred while the person was considered a dependent of the member or former member; and

(C) Is dependent on the member or former member for over one-half of the person's support; and

(D) Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation; and

(E) Is not a dependent of a member or former member as described in § 199.3(b)(2).

(2) *Effective date.* Except for the special transitional provisions in paragraph (r) of this section, eligibility in the CHCBP is limited to individuals who lost their entitlement to regular military health services system benefits on or after October 1, 1994.

(3) *Notification of eligibility.* (i) The Department of Defense and the other Uniformed Services (National Oceanic and Atmospheric Administration (NOAA), Public Health Service (PHS), Coast Guard) will notify persons eligible to receive health benefits under the CHCBP.

(ii) In the case of a member who becomes (or will become) eligible for continued coverage, the Department of Defense shall notify the member of their rights for coverage as part of pre-separation counseling conducted under 10 U.S.C. 1142.

(iii) In the case of a dependent of a member or former member who becomes eligible for continued coverage under paragraph (d)(1)(ii) of this section:

(A) The member or former member may submit to the CHCBP contractor a notice with supporting documentation of the dependent's change in status (including the dependent's name, address, and such other information needed); and

(B) The CHCBP contractor, within 14 days after receiving such information, will inform the dependent of the dependent's rights under 10 U.S.C. 1142.

(iv) In the case of a former spouse of a member or former member who becomes eligible for continued coverage, the member, former member or former spouse may submit to the CHCBP contractor a notice of the former spouse's change in status. The CHCBP contractor within 14 days after receiving such information will notify the individual of their potential eligibility for CHCBP.

(4) *Election of coverage.* In order to obtain coverage under the CHCBP, a written election by the eligible beneficiary must be made within a prescribed time period.

(i) In the case of a member discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, the written election shall be submitted to the CHCBP contractor before the end of the 60-day period beginning on the later of:

(A) The date of the discharge or release of the member from active duty or full-time National Guard duty; or

(B) The date that the period of transitional health care applicable to the member under 10 U.S.C. 1145(a) ends; or

(C) The date the member receives the notification required in paragraph (d)(3)(ii) of this section.

(ii) In the case of a child who ceases to meet the requirements for being an unremarried dependent child of a member or former member under 10 U.S.C. 1072(2)(D), the written election shall be submitted to the CHCBP contractor before the end of the 60-day period beginning on the later of:

(A) the date that the dependent ceases to meet the definition of a dependent under 10 U.S.C. 1072(2)(D); or

(B) The date that the dependent receives the notification required in paragraph (d)(3)(iii) of this section,

(iii) In the case of former spouse of a member or former member, the written election shall be submitted to the CHCBP contractor before the end of the 60-day period beginning on the later of:

(A) The date as of which the former spouse first ceases to meet the requirements for being considered a dependent under 10 U.S.C. 1072(2); or

(B) Such other date as the Secretary of Defense may prescribe.

(iv) A member of the armed forces who is eligible for enrollment under paragraph (d)(1)(i) of this section may elect self-only or family coverage. Family members who may be included in such family coverage are the spouse and children of the member.

(v) All other categories eligible for enrollment under paragraph (d)(1) must elect self-only coverage.

(5) *Enrollment.* To enroll in the CHCBP, an eligible individual must submit a completed DD Form 2387 ''Continued Health Care Benefit Program (CHCBP) Application,'' documentation as requested on DD Form 2387 to verify the applicant's eligibility for enrolling in CHCBP, and payment to cover the quarter's premium. The CHCBP contractor may request additional information and documentation to confirm the applicant's eligibility for CHCBP.

(6) *Period of coverage.* CHCBP coverage may not extend beyond:

(i) For a member discharged or released from active duty (or full-time

National Guard duty), whether voluntarily or involuntarily, the date which is 18 months after the date the member ceases to be entitled to care under 10 U.S.C. 1074(a) and any transitional care under 10 U.S.C. 1145.

(ii) In the case of an child of a member or former member, the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under 10 U.S.C. 1072(2)(D).

(iii) In the case of an unremarried former spouse of a member or former member, the date which is 36 months after the later of:

(A) The date on which the final decree of divorce, dissolution, or annulment occurs; or

(B) If applicable, the date the one-year extension of dependency under 10 U.S.C. 1072(2)(H) expires.

(iv) In the case of a former spouse of a retiree whose marriage was dissolved after the member retired from the service, the period of coverage under the CHCBP is unlimited, if the former spouse:

(A) Has not remarried before the age of 55; and

(B) Was enrolled in the CHCBP or TRICARE as the dependent of a retiree during the 18-month period before the date of the divorce, dissolution, or annulment; and

(C) Is receiving a portion of the retired or retainer pay of a member or former member or an annuity based on the retainer pay of the member; or

(D) Has a court order for payment of any portion of the retired or retainer pay; or

(E) Has a written agreement (whether voluntary or pursuant to a court order) which provides for an election by the member or former member to provide an annuity to the former spouse.

(v) For the beneficiary who becomes eligible for the CHCBP by ceasing to meet the requirements for being considered an unmarried dependent child of a member or former member, health care coverage not may extend beyond the date which is 36 months after the date the member becomes ineligible for medical and dental care under 10 U.S.C. 1074(a) and any transitional health care under 10 U.S.C. 1145(a).

(vi) Though beneficiaries have sixty days (60) to elect coverage under the CHCBP, upon enrolling, the period of coverage must begin the day after entitlement to a military health care plan (including transitional health care under 10 U.S.C. 1145(a)) ends as though no break in coverage had occurred.

(e) *CHCBP benefits.* (1) *In general.* Except as provided in paragraph (e)(2) of this section, the provisions of § 199.4 shall apply to the CHCBP as they do to TRICARE.

(2) *Exceptions.* The following provisions of Sec. 199.4 are not applicable to the CHCBP:

(i) Section 199.4 (a)(2) concerning eligibility.

(ii) All provisions regarding nonavailability statements or requirements to use facilities of the Uniformed Services.

(3) *Beneficiary liability.* For purposes of TRICARE deductible and cost-sharing requirements and catastrophic cap limits, amounts applicable to the category of beneficiaries to which the CHCBP enrollee last belonged shall continue to apply, except that for separating active duty members, amounts applicable to dependents of active duty members shall apply.

(f) *Authorized providers.* The provisions of § 199.6 shall apply to the CHCBP as they do to TRICARE.

(g) *Claims submission, review, and payment.* The provisions of § 199.7 shall apply to the CHCBP as they do to TRICARE, except that no provisions regarding nonavailability statements shall apply.

(h) *Double coverage.* The provisions of § 199.8 shall apply to the CHCBP as they do to TRICARE.

(i) *Administrative remedies for fraud, abuse, and conflict of interest.* The provisions of § 199.9 shall apply to the CHCBP as they do to TRICARE.

(j) *Appeal and hearing procedures.* The provisions of § 199.10 shall apply to the CHCBP as they do to TRICARE.

(k) *Overpayments recovery.* The provisions of § 199.11 shall apply to the CHCBP as they do to TRICARE.

(l) *Third party recoveries.* The provisions of § 199.12 shall apply to the CHCBP as they do to TRICARE.

(m) *Provider reimbursement methods.* The provisions of § 199.14 shall apply to the CHCBP as they do to TRICARE.

(n) *Quality and Utilization Review Peer Review Organization Program.* The provisions of § 199.15 shall apply to the CHCBP as they do to TRICARE.

(o) *Preferred provider organization programs available.* Any preferred provider organization program under this part that provides for reduced cost sharing for using designated providers, such as the ''TRICARE Extra'' option under § 199.17, shall be available to participants in the CHCBP as it is to TRICARE beneficiaries.

(p) *Special programs not applicable.* (1) *In general.* Special programs established under this Part that are not part of the basic TRICARE program established pursuant to 10 U.S.C. 1079 and 1086 are not, unless specifically provided in this section, available to participants in the CHCBP.

(2) *Examples.* The special programs referred to in paragraph (p)(1) of this section include:

(i) The Program for Persons with Disabilities under § 199.5;

(ii) The TRICARE Dental Program under § 199.13;

(iii) The Supplemental Health Care Program under § 199.16;

(iv) The TRICARE Enrollment Program under § 199.17, except for TRICARE Extra program under that section; and

(v) The TRICARE Retiree Dental Program under § 199.22.

(q) *Premiums.* (1) *Rates.* Premium rates will be established by the Assistant Secretary of Defense (Health Affairs) for two rate groups—individual and family. Eligible beneficiaries will select the level of coverage they require at the time of initial enrollment (either individual or family) and pay the appropriate premium payment. The rates are based on Federal Employees Health Benefits Program employee and agency contributions required for a comparable health benefits plan, plus an administrative fee. The administrative fee, not to exceed ten percent of the basic premium amount, shall be determined based on actual expected administrative costs for administration of the program. Premiums may be revised annually and shall be published when the premium amount is changed. Premiums will be paid by enrollees quarterly.

(2) *Effects of failure to make premium payments.* Failure by enrollees to submit timely and proper premium payments will result in denial of continued enrollment and denial of payment of medical claims. Premium payments that are late 30 days or more past the start of the quarter for which payment is due will result in the termination of beneficiary enrollment. Beneficiaries denied continued enrollment due to lack of premium payments will not be allowed to reenroll. In such a case, benefit coverage will cease at the end of the ninety-day (90) period for which a premium payment was received. Enrollees will be held liable for medical costs incurred after losing eligibility.

(r) *Transitional provisions.* (1) There will be a sixty-day period of enrollment for all eligible beneficiaries (outlined in paragraph (d)(1) of this section) whose entitlement to regular Military Health System coverage ended on or after August 2, 1994, but prior to the CHCBP implementation on October 1, 1994.

(2) Enrollment in the U.S. VIP program may continue up to October 1, 1994. Policies written prior to October 1, 1994, will remain in effect until the end of the policy life.

(3) On or after the October 1, 1994, implementation of the CHCBP, beneficiaries who enrolled in the U.S. VIP program prior to October 1, 1994, may elect to cancel their U.S. VIP policy and enroll in the CHCBP.

(4) With the exception of persons enrolled in the U.S. VIP program who may convert to the CHCBP, individuals who lost their entitlement to regular Military Health System coverage prior to August 2, 1994, are not eligible for the CHCBP.

(s) *Procedures.* The Director, TRICARE Management Activity, may establish other rules and procedures for the administration of the Continued Health Care Benefit Program.

Dated: November 19, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–28358 Filed 11–25–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 599

[Docket No. NHTSA–2009–0120; Notice 1]

RIN 2127–AK67

Requirements and Procedures for Consumer Assistance To Recycle and Save Program

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations implementing the Consumer Assistance to Recycle and Save (CARS) program, published on July 29, 2009, in the **Federal Register**, under the CARS Act. The rule change would allow disposal facilities an additional 90 days, for a total of 270 days, to crush or shred a vehicle traded in under the CARS program. This additional time would allow the public to benefit from the availability of lower cost used vehicle parts from vehicles traded in under the CARS program and would provide disposal facilities with an opportunity to derive more revenue from those vehicles prior to crushing or shredding.

DATES: Submit comments on or before December 17, 2009.

ADDRESSES: You may submit comments electronically [identified by DOT Docket Number NHTSA–2009–0120] by visiting the following Web site:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- *Mail: Docket Management Facility:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: 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 (65 FR 19477–78).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For questions, you may call David Jasinski, NHTSA Office of Chief Counsel, at (202) 366–5552.

SUPPLEMENTARY INFORMATION:

Current Rule and Proposed Change

This proposed rule would amend the regulations implementing the Consumer Assistance to Recycle and Save (CARS) program, published on July 29, 2009, in the **Federal Register** (74 FR 37878), under the CARS Act (Pub. L. 111–32), and amended by final rules published on August 5, 2009 (74 FR 38974), and September 28, 2009 (74 FR 49338). The rule change would allow disposal facilities an additional 90 days, for a total of 270 days, to crush or shred a vehicle traded in under the CARS program. This additional time would allow the public to benefit from the availability of lower cost, used vehicle parts from CARS trade-in vehicles and would provide disposal facilities with an opportunity to derive more revenue from those vehicles prior to crushing or shredding thereby providing additional economic benefit from the CARS program.

Section 1302(c)(2) of the CARS Act grants the agency discretion to determine the appropriate time period in which a disposal facility must crush a vehicle. The rule currently requires a disposal facility that receives a vehicle traded in under the CARS program to crush or shred the vehicle within 180 days of receipt of the vehicle. 49 CFR 599.401(a)(3). After consulting with representatives of disposal facilities, the agency determined that 180 days was an appropriate amount of time to allow a disposal facility to possess a car prior to crushing or shredding. The allowed time period was determined based upon an estimate that 250,000 vehicles would be traded in under the CARS program and that the program's duration would be four months.

Due to the enormous popularity of the CARS program, the initial $1 billion in available funds were quickly depleted and, on August 7, 2009, Congress provided the CARS program with an additional $2 billion (Pub. L. 111–47). On August 25, 2009, approximately one month after the CARS program began, the agency stopped accepting new submissions because the additional funds were also depleted. By that time, nearly 700,000 new vehicles had been sold under the CARS program.

Shortly after new CARS program transactions ceased and the majority of the dealers' transactions were reimbursed by NHTSA, a representative of disposal facilities requested a meeting with NHTSA officials to discuss the possibility of extending the 180-day time period for crushing or shredding a trade-in vehicle. Although disposal facilities initially expected to receive 250,000 CARS trade-in vehicles spread out over four months, disposal facilities actually received nearly 700,000 CARS trade-in vehicles. Further, the majority of the CARS trade-in vehicles were received within less than one month.

At a September 29, 2009, meeting [1] with disposal facility representatives, agency officials learned that some disposal facilities were experiencing

[1] A memorandum summarizing the meeting has been placed in the docket. (Docket No. NHTSA–2009–0120).