

There is no charge to attend these meetings. Advance registration is requested because seating is limited. The deadline for registering is 1 week

before each meeting. Late registration will be accepted on a space available basis. Persons interested in attending should FAX, mail, or telephone their

name, organization, address, and telephone number to the local contact person listed below in Table 2 for each meeting location.

TABLE 2

Meeting Location	Contact Person
Boston, MA	Sylvia Craven, New England District Office (FDA), One Montvale Ave., Stoneham, MA 02180, 617-279-1675 ext. 101; FAX: 617-279-1742.
Baltimore, MD	Alexander A. Ondis, Baltimore District Office (FDA), 900 Madison Ave., Baltimore, MD 21201, 410-962-4052; FAX: 410-962-2307.
Tampa, FL	Frank R. Goodwin, Florida District Office (FDA), 7200 Lake Ellenor Dr. Ste. 120, Orlando, FL 32809, 407-648-6997 ext. 221; FAX: 407-648-6221
New Orleans, LA	Leon L. Law, New Orleans District Office (FDA), 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-7183/6344 ext. 114; FAX: 504-589-4365.
Seattle, WA	Christopher Rezendes, Seattle District Office (FDA), 1000 2d Ave., Suite 2400 Seattle, WA 98104, 206-553-7001 ext. 21; FAX: 206-553-7020.

Prior, less extensive, presentations by FDA of the seafood HACCP regulations have been made at Aquaculture '96 and Bangkok Seafood Show, Bangkok, Thailand, January 31, 1996; the 11th Indian Seafood Trade Fair, Bombay, India, February 10, 1996; Aquaculture America, Arlington, Texas, February 15, 1996; the Pacific Fisheries Technologists Annual Meeting, San Diego, California, February 19, 1996; and the 4th Annual Smoked Fish Conference, Seattle, WA, March 5, 1996.

Additional, less extensive, presentations by FDA are planned in conjunction with the International Conference on Fish Inspection and Quality Control, May 23, 1996, Arlington, VA. Other presentations may be scheduled as time and resources permit.

Dated: March 4, 1996.

William K. Hubbard,
Associate Commissioner for Policy
Coordination.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1313

[Docket No. 89-02; Notice 8]

RIN 2127-AD01

Incentive Grant Criteria for Drunk Driving Prevention Programs

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

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends the regulations on incentive grant criteria for drunk driving prevention programs to reflect changes that were made to the section 410 program by the National Highway System Designation Act of 1995 (NHS Act). As a result of this interim final rule, the Section 410 supplemental grant criterion that requires that States "deem persons under age 21 who operate a motor vehicle with a BAC of 0.02 or greater to be driving while intoxicated" has been changed to a basic grant criterion. In addition, the regulation now provides for an alternative method for some States to demonstrate compliance with the basic grant criterion that requires that States have a "statewide program for stopping vehicles."

In today's Federal Register, NHTSA and the Federal Highway Administration (FHWA) have published a separate notice of proposed rulemaking (NPRM), which contains a proposal for implementing a new "zero tolerance" sanction program enacted by the NHS Act, which is similar to the Section 410 "0.02 BAC" basic grant criterion cited above. NHTSA requests comments regarding the changes made by this interim final rule, and regarding whether additional changes should be made to the Section 410 "0.02 BAC" basic grant criterion, as a result of the new "zero tolerance" sanction program.

DATES: This interim final rule becomes effective March 7, 1996. Comments on this interim rule are due no later than April 22, 1996.

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

FOR FURTHER INFORMATION CONTACT: Ms. Marlene Markison, Chief, Program Support Staff, NRO-10, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, DC 20590; telephone (202) 366-2121 or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, Office of Chief Counsel, NCC-30, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 366-1834.

SUPPLEMENTARY INFORMATION: Section 410, title 23, United States Code, as amended, established an incentive grant program under which States may qualify for basic and supplemental grant funds for adopting and implementing comprehensive drunk driving prevention programs that meet specified statutory criteria.

On November 28, 1995, the National Highway System Designation Act of 1995 (NHS Act) was enacted into law. Section 324 of the NHS Act contained amendments to 23 U.S.C. 410.

Statewide Program for Stopping Motor Vehicles

Before its amendment by the NHS Act, Section 410 contained a basic grant criterion requiring that States must provide for "a statewide program for stopping motor vehicles." To qualify for a basic grant under this criterion, States were required to provide:

A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

On June 30, 1992, NHTSA issued an interim final rule to implement this provision. The preamble to the interim final rule stated:

NHTSA is aware * * * that the courts in some States have declared the use of checkpoints or roadblocks to be unconstitutional under their State constitution [and has, therefore, * * *] attempted in this final rule to provide some flexibility to enable these States to describe other Statewide programs for stopping motor vehicles, using alternative methods * * *

The agency [, however,] expects most States will meet this criterion by describing their plans for conducting a Statewide checkpoint or roadblock program.

Section 324(b)(1) of the NHS Act amended Section 410 by providing an alternative method of demonstrating compliance with this Section 410 basic grant criterion, for those States in which checkpoints or roadblocks have been declared to be unconstitutional. Section 324(b)(1) provides:

A State shall be treated as having met the requirement of this paragraph if—

(i) the State provides to the Secretary a written certification that the highest court of the State has issued a decision indicating that implementation of subparagraph (A) would constitute a violation of the constitution of the State; and

(ii) the State demonstrates to the satisfaction of the Secretary that—

(I) the alcohol fatal crash involvement rate in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

(II) the alcohol fatal crash involvement rate in the State has been lower than the average such rate for all States in each of such calendar years.

As a result of the changes made by today's interim final rule, a State may demonstrate compliance with this criterion using an alternative method, under which the State must submit a certification that the highest court of the State has issued a decision, indicating that a Statewide program for the stopping of motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol, would constitute a violation of the State's Constitution. The State must also provide a copy of the court's decision.

NHTSA will then, based on data contained in the Fatal Accident Reporting System (FARS) and using NHTSA's method for estimating alcohol

involvement, determine the alcohol involvement rate in fatal crashes in the State in each of the three most recent calendar years for which statistics for determining this rate are available and the average such rate for all States in each of these three years.

The State will qualify, under this criterion, if NHTSA determines that the data show that the alcohol involvement rate in fatal crashes in the State has decreased in each of the three most recent calendar years for which statistics for determining such rate are available, and that the alcohol involvement rate in fatal crashes in the State has been lower than the average such rate for all States in each of such calendar years.

0.02 BAC Per Se Law for Persons Under Age 21

Prior to the enactment of the NHS Act, Section 410 provided that, to qualify for basic grant funds, a State was required to meet five out of six basic grant criteria.¹ If a State qualified for a basic grant, it could also seek to qualify for funds under one or more of seven supplemental grants. To qualify under the first of these seven supplemental grants, a State was required to provide that any person under age 21 with an alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

Section 324(b)(2) of the NHS Act amended Section 410 by converting this "0.02 BAC" requirement from a supplemental to a basic grant criterion. Accordingly, as a result of the changes made by this interim final rule, the "0.02 BAC" requirement remains the same. However, it is removed from the list of supplemental grants (reducing the number of such grants from seven to six), and added to the list of basic grant criteria under Section 410 (increasing the total of basic grant criteria from six to seven).

To qualify for basic grant funds, States must now meet five out of seven basic grant criteria.² As before, if a State qualifies for a basic grant, it can also seek to qualify for funds under one or more of the supplemental grants. However, the number of supplemental

¹To receive a basic grant, States that qualified for section 410 funding in FY 1992 could demonstrate compliance with only four out of the five basic grant criteria that were in effect at that time.

²To receive a basic grant, States that qualified for section 410 funding in FY 1992 have two options. They may qualify either by demonstrating compliance with four out of the five basic grant criteria that were in effect at that time, or by demonstrating compliance with five out of the seven current basic grant criteria.

grants has been reduced from seven to six.

Interim Final Rule

This notice is published as an interim final rule. Accordingly, the changes to Part 1313 described above are fully in effect and binding upon the notice's publication. No further regulatory action by NHTSA is necessary to make these changes effective.

To ensure that States are able to apply for grant funds in fiscal year 1996 under an implementing regulation that reflects the statutory amendments contained in the NHS Act, these changes have been made as an interim final rule, without prior notice and opportunity to comment. These changes do not impose any additional requirements on States. In fact, they provide additional flexibility to States that wish to apply for Section 410 grants this fiscal year. In addition, the changes made to the regulation, simply reflect the statutory amendments enacted by the NHS Act.

NHTSA requests comments on these changes. All comments submitted in response to this notice will be considered by the agency. Following the close of the comment period, NHTSA will publish a notice responding to the comments and, if appropriate, will further amend the provisions of Part 1313.

NHTSA also requests comments on the issues described below, which involve changes the agency is considering for adoption in future rulemaking, but which have not been made in today's interim final rule.

New Zero Tolerance Sanction

As explained more fully in a separate notice of proposed rulemaking (NPRM), published in the notices section of today's Federal Register, Section 320 of the NHS Act added a new Section 161 to title 23, United States Code, to create a new zero tolerance sanction program, which requires the withholding of certain Federal-aid highway funds from States that do not enact and enforce a "zero tolerance" law. The "zero tolerance" requirement contained in Section 161 is similar, but not identical, to the "0.02 BAC" grant criterion contained in Section 410.

Section 410 provides that, to qualify for funding under the "0.02 BAC" grant criterion, a State must provide "that any person under age 21 with a BAC of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated." Section 161 provides that, to avoid the withholding of Federal-aid highway funds, a State must enact and enforce "a law that considers an individual under the age of

21 who has a BAC of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol."

In the NPRM, NHTSA and the Federal Highway Administration (FHWA), the agencies responsible for jointly administering this new sanction program, state that:

The agencies believe that, while Congress intended to encourage all States to enact and enforce effective zero tolerance laws, it also intended to provide States with sufficient flexibility so they could develop laws that suited the particular conditions that exist in those States. Accordingly, the statute prescribes only a limited number of basic elements that State laws must meet to avoid the withholding of Federal-aid highway funds.

NHTSA and FHWA propose in the NPRM that, to avoid the sanction, States must demonstrate that they have enacted and are enforcing a law that: (1) Applies to all individuals under the age of 21; (2) sets a BAC of not higher than 0.02 percent as the legal limit; (3) makes operating a motor vehicle by an individual under the age of 21 above the legal limit a per se offense; and (4) provides for primary enforcement.

Impact of New Zero Tolerance Sanction on 0.02 BAC Criterion

The proposed requirement under the new zero tolerance sanction differs from the current requirement under the Section 410 "0.02 BAC" grant criterion. Currently, to qualify for a Section 410 grant under the "0.02 BAC" grant criterion, in addition to the requirements listed above, a State must provide for a 30-day suspension or revocation. The 30-day suspension or revocation period must be a mandatory hard suspension or revocation (i.e., it may not be subject to hardship, conditional or provisional driving privileges). To demonstrate compliance with this criterion, States must submit a law that provides for each element of the criterion, except that States with laws that do not specifically provide for a 30-day suspension period may submit data showing that the average length of the suspension term for offenders meets or exceeds 30 days.

As stated above, today's interim final rule changes the Section 410 "0.02 BAC" grant criterion from a supplemental to a basic grant criterion. It does not, however, change the criterion itself or the method for demonstrating compliance.

If the proposed "zero tolerance" regulation published in today's NPRM is adopted without change, and no further changes are made to the Section 410

"0.02 BAC" grant criterion, the following situation could result: a State could enact and enforce a law that would permit it to avoid the "zero tolerance" sanction, but not enable it to qualify for a Section 410 grant under the "0.02 BAC" grant criterion.

The current Section 410 "0.02 BAC" criterion was first adopted in an interim final rule, dated August 9, 1994 (59 FR 40470), which requested comments from the public. In response to that notice, one commenter (Advocates for Highway Safety) expressed concern that the criterion was not strict enough. Advocates stated:

We are not convinced * * * that a 30-day period of suspension is sufficient to make an effective impression on under age 21 drivers. * * * We believe that there is a strong argument for requiring a 90-day suspension for under age 21 supplemental grants even for states that meet the basic grant criteria without an ALR law.

Two commenters (the Michigan Department of State Police and the National Association of Governors' Highway Safety Representatives (NAGHSR)) considered the 30-day hard suspension requirement too strict. NAGHSR expressed the view that the 30-day requirement was not contained in the Section 410 statute, and its inclusion in the regulation made it unnecessarily difficult for States to qualify for Section 410 funds.

In light of the comments that NHTSA received in response to its interim final rule dated August 9, 1994, and the proposed implementation of the new "zero tolerance" sanction program established by the NHS Act, NHTSA is requesting comments regarding whether to make further revisions to Part 1313. Specifically, NHTSA requests comments regarding whether it should retain different requirements under the "zero tolerance" sanction and the Section 410 "0.02 BAC" grant criterion, or whether it should amend the Section 410 "0.02 BAC" criterion to be the same as the "zero tolerance" sanction requirement.

Written Comments

Interested persons are invited to comment on this interim final rule. It is requested, but not required, that ten copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by April 22, 1996. All comments received before the close of business on the comment

closing date, will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Following the close of the comment period, NHTSA will publish a notice responding to the comments and, if appropriate, NHTSA will amend the provisions of this rule. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

Copies of all comments will be placed in Docket 89-02; Notice 8 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This interim final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

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

The agency has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or Department of Transportation Regulatory Policies and Procedures. Section 410 is a voluntary program. In addition, the changes made in this interim final rule merely reflect amendments contained in Public Law 104-59. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

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

a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

The requirements relating to the regulation that this rule is amending that States retain and report to the Federal government information which demonstrates compliance with drunk driving prevention incentive grant criteria, 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.

Accordingly, these requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, et seq.). These requirements have been approved under OMB No. 2127-0501. A request for an extension of this approval through 11/30/98 is currently pending.

National Environmental Policy Act

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

Executive Order 12612 (Federalism Assessment)

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 the preparation of a federalism assessment. Accordingly, the preparation of a Federalism Assessment is not warranted.

List of Subjects in 23 CFR Part 1313

Alcohol abuse, Drug abuse, Grant programs—transportation, Highway safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA amends 23 CFR Part 1313 as set forth below:

PART 1313—INCENTIVE GRANT CRITERIA FOR DRUNK DRIVING PREVENTION PROGRAMS

1. The authority citation for Part 1313 continues to read as follows:

Authority: 23 U.S.C. 410; delegation of authority at 49 CFR 1.50.

2. Section 1313.5 is amended by removing the word “six” in the introductory text and by adding paragraphs (c)(4) and (g) to read as follows:

§ 1313.5 Requirements for a basic grant.

* * * * *

(c) * * *

(4)(i) A State shall be treated as having met the requirement of this paragraph if the highest court of the State has issued a decision indicating that implementation of paragraph (c)(1) of this section would constitute a violation of the constitution of the State and NHTSA determines, based on data contained in the Fatal Accident Reporting System (FARS) and using NHTSA’s method for estimating alcohol involvement, that the alcohol involvement rate in fatal crashes in the State:

(A) Has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

(B) The alcohol involvement rate in fatal crashes in the State has been lower than the average such rate for all States in each of such calendar years.

(ii) To demonstrate compliance under this paragraph in each fiscal year the State receives a basic grant based on this criterion, the State shall submit:

(A) A certification that the highest court of the State has issued a decision indicating that a Statewide program for the stopping of motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol, would constitute a violation of the State’s Constitution; and

(B) A copy of the court’s decision.

* * * * *

(g) *Per se law for persons under age 21.* (1) Provide that any person under age 21 with an alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated and shall be subject to the temporary debarring of all driving privileges for a term of not less than 30 days.

(2)(i) To demonstrate compliance in each year the State receives a basic grant based on this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the per se law for persons under age 21 criterion.

(ii) For the purpose of this paragraph, “Law State” means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation which provides for each element of the per se law for persons under age 21 criterion.

(3)(i) To demonstrate compliance in each year the State receives a basic grant

based on this paragraph, a Data State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the per se law for persons under age 21 criterion and data showing that the average length of the suspension term for offenders under this law meets or exceeds 30 days.

(ii) The State can provide the necessary data based on a representative sample. Data on the average length of the suspension term must not include license suspension periods which exceed the terms actually prescribed by the State, and must reflect terms only to the extent that they are actually completed.

(iii) For the purpose of this paragraph, “Data State” means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation which provides for each element of the per se law for persons under age 21 criterion, except that it does not specifically provide for the temporary debarring of all driving privileges for a term of not less than 30 days.

§ 1313.6 [Amended]

3. Section 1313.6 is amended by removing paragraph (a) and redesignating paragraphs (b) through (g) as paragraphs (a) through (f), respectively.

Issued on: February 29, 1996.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 96-5131 Filed 3-6-96; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS SEAWOLF (SSN 21) is a vessel of the Navy which, due to its special construction and purpose,