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May 18, 2004

U.S. Department of Transportation
Dockets Management Facility
Room PL-401
400 Seventh Street, SW
Washington, DC 20590-0001

RE: Docket No. NHTSA-04-17326

To Whom It May Concern:

Please accept the following comments on behalf of the Texas Department of Public Safety (TXDPS), Driver License Division (DLD), as it pertains to Docket No. NHTSA-04-17326. The March 31, 2004 Notice of Proposed Rulemaking solicits comments on NTHSA's proposed Code of Federal Regulations (CFR) changes as it relates to the National Driver Register's Problem Driver Pointer System (NDR-PDPS) regulations. Specifically, the following responses are offered by the TXDPS, in response to the proposed section changes outlined in the notice.

1. Amendment requiring States to verify individual's driving record through NDR and CDLIS prior to issuance or renewal of an operator's license; issuance includes original, renewal, temporary, or duplicate licenses:

   a. 23 CFR 1327.5(b)(1)
   The amendment will impact the state's driver license issuance process as it requires inquiries (CDLIS/PDPS) for additional driver license transactions. Currently, Texas statute only provides the TXDPS with the authority to deny issuance (original or temporary transactions) or renewal to an individual who has a suspension in another jurisdiction. The statute provides no reference to denying a duplicate issuance. The TXDPS will pursue rule or statute changes as necessary.

   Currently, the Driver Improvement Bureau receives a batch generated report based on DL Field Office or web-based license issuances and renewals. The report prompts technicians to review to ensure only eligible individuals are issued licenses. The proposed regulation change will require the programming logic for this report to be modified to include that duplicate transactions are reviewed for eligibility under NDR-PDPS regulations. Additionally, system changes will be required so that the issuance software used by DL Field Offices includes queries on renewal, temporary, and duplicate transactions. Accordingly, the DLD anticipates an increase in the amount of time to process an applicant and, therefore, a commensurate increase in DL Office wait times. If the PDPS application is robust enough to handle the volumes of additional queries nationwide, the impact should be minimal however.

   It is offered that the TXDPS is reengineering all data systems involved in the driver licensing process. Implementation of these changes is contingent upon this project and will coincide with the TXDPS' completion of its driver license reengineering project.

2. Amendment to include definition of "employers or prospective employers of motor vehicle operators"

a. 23 CFR 1327.3(g)
The TXDPS offers no comments to this proposed revision.

3. Clarification of definition of "For Cause"

   a. Conforming amendment to 23 CFR 1327.3(h)
   Please refer to the Department's response in numbered item 4.

4. Clarification regarding withdrawals and/or convictions that should be reported to NDR

   a. Proposed amendment to 23 CFR Part 1327.5(a)
   The DLD provided comments to AAMVA on its proposed ACD changes as some frequently used codes, e.g. W10, are slated for deletion and will impact the accurate reporting of Texas' withdrawals. Therefore, the DLD has concerns that the NHTSA is moving to adopt the AAMVA revisions.

   Additionally, it appears there are numerous conflicts between Parts I and II in the appendix. For example, the ACD "M09" is included in Appendix A Part I as a withdrawal, but there is no corresponding "M09" conviction in Part II. Generally, there are several disparities between the two parts of the appendix which should be reconciled prior to publication of the final rule.

   The TXDPS also offers that it is concerned that NHTSA's proposed list of reportable withdrawals/convictions will create confusion for licensing jurisdictions and law enforcement as different status' will be reported across data systems routinely used by these entities. The TXDPS found this to be the case in its initial implementation of PDPS in 1996 as a driver's status between the Texas Law Enforcement Telecommunications System (TLETS), the Commercial Driver License Information System (CDLIS), and PDPS varied in some instances. Thereafter, the DLD elected to create pointers for items that the NDR-PDPS deemed permissible, but not required. This change reconciled the issue of different status' between the data systems. The proposed changes in the March 31 notice will no longer allow the DLD to uniformly report status' and, thus, the Department anticipates the same confusion amongst licensing jurisdictions and law enforcement will reoccur.

   Additionally, the DLD offers that historically the most challenging aspect of processing ineligible responses involves obtaining information from other licensing jurisdictions. Specifically, the DLD has found that in numerous instances when contact is made with another jurisdiction regarding a Master Pointer Record (MPR), the other state is unable to provide sufficient information. Either the other jurisdiction can not produce documentation of what is necessary to clear the record or the jurisdiction can not produce underlying records and/or court information for the underlying convictions, etc., but the jurisdiction is unwilling to clear the record. The DLD, while wanting to honor the MPR and uphold the intent of the PDPS, is challenged to deny issuance under these circumstances. The TXDPS urges NHTSA to include rulemaking which requires a jurisdiction to either provide specific reinstatement information or, if unavailable, delete the MPR.

   Collectively, the above issues substantially impact associated programming and the DLD's reporting and/or receiving of conviction, withdrawal, and driver status information. The TXDPS respectfully requests NHTSA consider the above issues before it adopts the rulemaking.

5. Amendment to update code list to correspond with the current ACD reporting codes

   a. Proposed amendment to appendix A to 23 CFR Part 1327
   b. Will determine any additional changes when AAMVA revision is finalized
   In addition to issues outlined above, the proposed ACD changes will impact Texas' current ACD code designation for native codes. Upon AAMVA's finalization of the ACD code set, TXDPS staff will review current ACD assignments to identify necessary updates. As related programming is completed, the TXDPS will conduct formal internal testing to ensure related suspension, disqualification, etc. action is taken. As well, as is standard with changes to AAMVA programs, the TXDPS will complete formal structured testing with AAMVA to ensure the accurate data exchange of the driver history in CDLIS and PDPS applications.

Again, as the TXDPS is reengineering all data systems involved in the driver licensing process, including the suspension process. Implementation of these changes is contingent upon this project and will coincide with the TXDPS' completion of its driver license reengineering project.

6. Stipulates that participating states must report their intent to participate in PDPS and must have been certified as being in compliance:

   a. Proposed Notification Requirement Under 23 CFR 1327.4 and Conforming Amendments to 23 CFR 1327.3(m) and 1327.5(b)(1)
   The TXDPS offers no additional comments on the proposed certification methodology.

   b. Definition of participating state under 23 CFR 1327.3(n)
   The TXDPS understands that the proposed coincides with Motor Carrier Safety Improvement Act rulemaking for CDLIS/PDPS queries prior to issuance of any type of license and State's intent to be bound by all current requirements of 49 U.S.C. 30304 and that States may face termination status if they fail to comply with notification requirements.

Should you have additional questions, please contact Maggie Gillean at 512/424-5657 or via email at maggie.gillean@txdps.state.tx.us.

Sincerely,

Judy E. Brown
Chief, Driver License Division