

repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing and subsequent fire hazard, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace two segments of 16 American Wire Gauge (AWG) wire with 8 AWG wire at the P190 connector that is connected to the E33 auxiliary cabin heater relay box, in accordance with Learjet Service Bulletin SB 31-21-10, dated August 11, 1995 (for Model 31 airplanes), or Learjet Service Bulletin SB 35-21-24, dated August 11, 1995 (for Model 35A airplanes), as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 1, 1996.

Darrell M. Pederson,
*Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.*
[FR Doc. 96-5368 Filed 3-6-96; 8:45 am]
BILLING CODE 4910-13-U

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1210

[NHTSA Docket No. 96-007; Notice 1]

RIN 2127-AG20

Operation of Motor Vehicles by Intoxicated Minors

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to implement a new program enacted by the National Highway System Designation (NHS) Act of 1995, which provides for the withholding of Federal-aid highway funds from any State that does not enact and enforce a "zero tolerance" law. This notice solicits comments on a proposed regulation to clarify what States must do to avoid the withholding of funds.

DATES: Comments must be received by 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: In NHTSA: Ms. Marlene Markison, Office of State and Community Services, NSC-01, telephone (202) 366-2121; or Ms. Heidi L. Coleman, Office of Chief Counsel, NCC-30, telephone (202) 366-1834.

In FHWA: Ms. Mila Plosky, Office of Highway Safety, HHS-20, telephone (202) 366-6902; or Mr. Raymond W. Cuprill, HCC-20, telephone (202) 366-0834.

SUPPLEMENTARY INFORMATION: The National Highway System Designation (NHS) Act of 1995, Pub. L. 104-59, was signed into law on November 28, 1995. Section 320 of the Act established a new Section 161 of Title 23, United States Code (Section 161), which requires the withholding of certain Federal-aid highway funds from States that do not enact and enforce "zero tolerance" laws. Section 161 provides that these "zero tolerance" laws must consider an individual under the age of 21 who has a blood alcohol concentration 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 a letter to Senator Robert Byrd, who sponsored the zero tolerance legislation, President Clinton stated:

Drinking and driving by young people is one of the nation's most serious threats to public health and public safety. I am deeply concerned about this ongoing tragedy which kills thousands of young people every year. It's against the law for young people to drink. It should be against the law for young people to drink and drive. * * *

A decade ago, we decided as a nation that the minimum drinking age should be 21. In 1984, President Reagan signed bipartisan

legislation to achieve this goal, and today all 50 states have enacted such laws. Our efforts are paying off—drunk driving among people under 21 have been cut in half since 1984.

But we must do more. * * * If all states had ["zero tolerance"] laws hundreds more lives could be saved and thousands of injuries could be prevented.

Senator Byrd stated, when he introduced the legislation:

My amendment builds upon one of the most important—and successful—Federal initiatives related to alcohol and minors—a 1984 requirement that States adopt laws prohibiting the possession or purchase of alcohol by anyone younger than twenty-one years of age * * *

NHTSA has estimated that the 21-year-old drinking age has saved 8400 lives since 1984. Further, in 1993, * * * the 21-year-old drinking age requirement is estimated to have saved \$1.8 billion in economic costs to our society * * *

The Congress should now take the next step, and explicitly state, as a matter of law, that minors are not allowed to drink and drive. My amendment is simple and straight forward—since it is illegal for minors under the age of 21 to * * * publicly possess or purchase alcohol—any level of consumption that is coupled with driving should be treated, under the requirements of each State's laws, as driving while intoxicated * * *

Under my amendment, the message to that minor is clear: you cannot drink and drive. Period. And, hopefully, this type of tough and absolute requirement in the law will encourage our young people not to drink at all.

Similar sentiments were expressed by Congresswoman Lowey, who sponsored zero tolerance legislation in the U.S. House of Representatives.

Adoption of Zero Tolerance Law

Section 161 specifically provides that the Secretary must withhold from apportionment a portion of Federal-aid highway funds from any State that does not meet certain statutory requirements. To avoid such withholding, a State must enact and enforce a law that considers an individual under the age of 21 who has a blood alcohol concentration 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.

Any State that does not enact and enforce a conforming zero tolerance law will be subject to a withholding from apportionment a portion of its Federal-aid highway funds. In accordance with Section 161, if a State does not meet the statutory requirements on October 1, 1998, five percent of its FY 1999 Federal-aid highway apportionment under 23 U.S.C. 104(b)(1), 104(b)(3) and 104(b)(5)(B) shall be withheld on that date. These sections relate to the National Highway System (NHS), the

Surface Transportation Program (STP) and the Interstate System.

If the State does not meet the statutory requirements on October 1, 1999, ten percent of its FY 2000 apportionment will be withheld on that date. Ten percent will continue to be withheld on October 1 of each subsequent fiscal year, if the State does not meet the requirements on those dates.

Compliance Criteria

To avoid the withholding from apportionment of Federal-aid highway funds, Section 161 provides that a State must enact and enforce:

A law that considers an individual under the age of 21 who has a blood alcohol concentration 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.

Section 161 does not define any of these terms, and it does not contain many details about what conforming State laws must provide. For example, it does not specify the penalties that must be imposed on offenders who violate such zero tolerance laws. Since Section 161 does not prescribe the penalties that must be imposed on offenders who violate zero tolerance laws, the agencies are proposing not to specify any minimum penalties in the implementing regulation.

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 suit the particular conditions that exist in those States. Accordingly, Section 161 prescribes only a limited number of basic elements that State laws must meet to avoid the withholding of Federal-aid highway funds.

In this notice, the agencies propose to define these basic elements. These elements are described below:

1. *Under the Age of 21.*

To avoid the withholding of funds, a State must enact and enforce a zero tolerance law that applies to all persons under the age of 21.

The agencies are aware of four States that currently have laws under which individuals who have a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State are considered to be driving while intoxicated or driving under the influence of alcohol, only if those individuals are under the age of 18. Since these laws do not apply to individuals between the ages of 18 and 21, they would not conform to the Federal requirement.

2. *Blood Alcohol Concentration of 0.02 Percent.*

To avoid the withholding of funds, a State must set 0.02 percent as the legal limit for blood alcohol concentration. States with laws that set a lower percentage (such as 0.00 percent) as the legal limit would also conform to the Federal requirement.

The agencies are aware of four States that currently have laws under which individuals under the age of 21 are considered to be driving while intoxicated or driving under the influence of alcohol, if they have a blood alcohol concentration of 0.04 or 0.07 percent. Since these laws do not reach individuals under the age of 21 who have a blood alcohol concentration of 0.02 percent, they would not conform to the Federal requirement.

3. *Per Se Law.*

To avoid the withholding of funds, a State must consider individuals under the age of 21 who have a blood alcohol concentration 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 other words, States must establish a 0.02 "per se" law for persons under the age of 21, that makes driving with a BAC of 0.02 percent or above itself an offense for such persons.

The agencies are aware of one State that currently has a law that makes it unlawful for persons under the age of 21 to drive while intoxicated or drive under the influence of alcohol, but provides that a BAC of 0.02 percent or above is only prima facie evidence of driving while intoxicated or driving under the influence of alcohol. Since the law does not make the operation of a motor vehicle by an individual under the age of 21 with a blood alcohol concentration of 0.02 a "per se" offense, this law would not conform to the Federal requirement.

4. *Primary Enforcement.*

To avoid the withholding of funds, a State must enact and enforce a zero tolerance law that provides for primary enforcement.

The agencies are aware of one State that currently has a law under which individuals under the age of 21 who have a blood alcohol concentration of 0.02 or greater while operating a motor vehicle in the State are considered to be driving while intoxicated or driving under the influence of alcohol. Enforcement of this law, however, may be accomplished only as a secondary action when the driver of a motor vehicle has been cited for a violation of some other offense. Accordingly, this law would not conform to the Federal requirement.

Demonstrating Compliance

Section 161 provides that funds will be withheld from apportionment from noncomplying States beginning in fiscal year 1999. To avoid the withholding, each State would be required by this proposed regulation to submit a certification. Under the agencies' proposal, States would be required to submit their certifications on or before September 30, 1998, to avoid the withholding from apportionment of FY 1999 funds on October 1, 1998. The agencies propose to permit (and strongly encourage) States to submit certifications in advance.

The submission of certifications in advance will enable the agencies to inform States as quickly as possible whether or not their laws satisfy the requirements of Section 161 and this regulation, and will provide States with noncomplying laws an opportunity to take the necessary steps to meet these requirements before the date for the withholding of funds.

In addition, it will prevent a State from receiving from the agencies an initial determination of noncompliance which, as explained later in this notice, the agencies propose to issue through FHWA's advance notice of apportionments, normally not later than ninety days prior to final apportionment (which normally occurs on October 1 of each fiscal year).

States that are found in noncompliance with these requirements in any fiscal year would be required to submit a certification to avoid the withholding of funds from apportionment in the following fiscal year. To avoid the withholding in that fiscal year, these States would be required to submit a certification demonstrating compliance before the last day (September 30) of the previous fiscal year.

Once a State is determined by the agencies to be in compliance with these requirements, the agencies propose that the State would not be required to submit certifications in subsequent fiscal years, unless the State's law had changed. The proposal specifies that it would be the responsibility of the States to inform the agencies of any such change in a subsequent fiscal year, by submitting an amendment or supplement to its certification.

The certifications submitted under this Part would provide the agencies with the basis for finding States in compliance with the Operation of Motor Vehicles by Intoxicated Minors requirement. The agencies are proposing that the certification must consist of a certifying statement and a copy of the

State's conforming law. If the State's law were to change, the State would be required to amend or supplement the State's original submission.

Notification of Compliance

For each fiscal year, beginning with FY 1999, NHTSA and FHWA propose to notify States of their compliance or noncompliance with Section 161, based on a review of certifications received. The agencies propose that this notification will take place through FHWA's normal certification of apportionments process. If a State does not submit a certification or if its certification does not conform to Section 161 and the implementing regulation, the agencies will make an initial determination that the State does not comply. States that are determined to be in noncompliance with Section 161 will be advised of the amount of funds expected to be withheld through FHWA's advance notice of apportionments, normally not later than ninety days prior to final apportionment.

Each State determined to be in noncompliance will have an opportunity to rebut the initial determination. The State will be notified of the agencies' final determination of compliance or noncompliance as part of the certification of apportionments, which normally occurs on October 1 of each fiscal year.

As stated earlier, NHTSA and FHWA expect that States will want to know as soon as possible whether their laws satisfy the requirements of Section 161 or they may want assistance in drafting conforming legislation. In addition, since the agencies propose to issue initial determinations of noncompliance through FHWA's advance notice of apportionments, normally not later than ninety days prior to final apportionment (which normally occurs on October 1 of each fiscal year), States will want to submit their certifications more than ninety days before October 1.

States are strongly encouraged to submit certifications in advance, and to request preliminary reviews and assistance from the agencies. Requests should be submitted through NHTSA's Regional Administrators, who will refer these requests to appropriate NHTSA and FHWA offices for review.

Period of Availability for Funds

Section 161 provides an incremental approach to the withholding of funds from apportionment for noncompliance. If a State is found to be in noncompliance on October 1, 1998, the State would be subject to a five percent

withholding of its FY 1999 apportionment on that date. If a State is found to be in noncompliance on October 1 of any subsequent fiscal year, beginning with FY 2000, the State would be subject to a ten percent withholding.

In addition, if a State is found to be in noncompliance in fiscal years 1999 or 2000, the funds withheld from apportionment to the State would remain available for apportionment to that State for a period of time, prescribed in the statute. If a State is found to be in noncompliance in any subsequent fiscal year, the funds withheld from apportionment would no longer be available for apportionment.

Paragraph (b)(1)(B) of Section 161 provides that, "No funds withheld under this section from apportionment to any State after September 30, 2000, shall be available for apportionment to the State." These funds would lapse, in accordance with paragraph (b)(4) of the section.

Paragraphs (b)(1)(A) and (b)(2) of Section 161 identify the period of time during which funds withheld on or before September 30, 2000, remain available for apportionment, and when they are to be restored if the State complies with the Federal requirements before the funds lapse. Paragraph (b)(3) establishes the period of time during which these subsequently apportioned funds would remain available to a State for expenditure. If the State does not meet the requirements during the period of time that the funds remain available for expenditure, the funds would lapse, in accordance with paragraph (b)(4) of the section.

These sections are virtually identical to those found in the National Minimum Drinking Age Act, as amended, 23 U.S.C. 158, and the Drug Offender's Drivers License Suspension Act, as amended, 23 U.S.C. 159. For a full discussion of how these provisions have been applied in practice, interested parties are encouraged to read the preambles to the agencies' joint final rules published in the Federal Register on August 18, 1988 (53 FR 31318) and August 12, 1992 (57 FR 35989).

Comments

Interested persons are invited to comment on this proposal. 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. 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. To expedite the submission of comments, simultaneous with the issuance of this notice, NHTSA and FHWA will mail copies to all Governors, Governors' Representatives for Highway Safety and State highway agencies.

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. The agencies 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 who wish 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 96-007; Notice 1 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Separate Interim Final Rule in Today's Federal Register

In today's Federal Register, NHTSA has published a separate interim final rule and request for comments, relating to Part 1313, the agency's regulation that implements its Section 410 program.

The interim final rule amends Part 1313, to reflect changes that were made to 23 U.S.C. 410 by the NHS Act, and requests comments on these changes. It also recognizes that one of the grant criteria under the section 410 program, which 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," is similar to the new "zero tolerance" sanction requirement contained in Section 320 of the NHS Act (23 U.S.C. Section 161). The interim final rule requests comments regarding whether additional changes should be made to the section 410 "0.02" grant criterion, as a result of the new "zero tolerance" sanction program. Comments regarding this issue should be submitted to the attention of Docket 89-02; Notice 8.

Regulatory Analyses and Notices

Executive Order 12778 (Civil Justice Reform)

This proposed rule would 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 agencies have determined that this proposed action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. States can choose to enact and enforce a zero tolerance law, in conformance with Pub. L. 104-59, and thereby avoid the withholding of Federal-aid highway funds. While specific criteria that State laws must meet have been proposed in this NPRM, they are mandated by Pub. L. 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 agencies have evaluated the effects of this proposed action on small entities. Based on the evaluation, we certify that this proposed action would 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 in this proposal that States certify that they conform to the statutory requirements to avoid the withholding of Federal-aid highway funds are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 C.F.R. Part 1320. The reporting and recordkeeping requirement associated with this rule is subject to approval by the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35. NHTSA and FHWA, NEED FOR INFORMATION: *To encourage States to enact and enforce zero tolerance laws*; NHTSA and FHWA, PROPOSED USE OF INFORMATION: *To provide procedures to State recipients of Federal-aid highway funds on how to certify compliance with the provision of Public*

Law 104-59. The law requires a zero tolerance law for drivers under the age of 21; FREQUENCY: *One time only*; BURDEN ESTIMATE: *52 hours*; RESPONDENTS: *States*; FORM(S): *None*; AVERAGE BURDEN HOURS PER RESPONDENT: *1 hour*. For further information contact: Mr. Edward Kosek, Office of Information Resources Management, NAD-51, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2590.

Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is requested that comments sent to OMB also be sent to the NHTSA rulemaking docket for this proposed action.

National Environmental Policy Act

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

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed 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 1210

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

In accordance with the foregoing, the agencies propose to add a new Part 1210 to Title 23 of the Code of Federal Regulations to read as follows:

PART 1210—OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS

Sec.

- 1210.1 Scope.
- 1210.2 Purpose.
- 1210.3 Definitions.
- 1210.4 Adoption of zero tolerance law.
- 1210.5 Certification requirements.
- 1210.6 Period of availability of withheld funds.
- 1210.7 Apportionment of withheld funds after compliance.
- 1210.8 Period of availability of subsequently apportioned funds.

1210.9 Effect of noncompliance.

1210.10 Procedures affecting States in noncompliance.

Authority: 23 U.S.C. 161; delegation of authority at 49 CFR 1.48 and 1.50.

§ 1210.1 Scope.

This part prescribes the requirements necessary to implement Section 161 of Title 23, United States Code, which encourages States to enact and enforce zero tolerance laws.

§ 1210.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the withholding of Federal-aid highway funds for noncompliance with 23 U.S.C. 161.

§ 1210.3 Definitions.

As used in this part:

(a) *BAC* means either blood or breath alcohol concentration.

(b) *Alcohol concentration* means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(c) *Operating a motor vehicle* means driving or being in actual physical control of a motor vehicle.

§ 1210.4 Adoption of zero tolerance law.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 1999 if the State does not meet the requirements of this part on that date.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 2000 and any subsequent fiscal year if the State does not meet the requirements of this part on that date.

(c) A State meets the requirements of this section if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration 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. The law must:

(1) Apply to all individuals under the age of 21;

(2) Set a blood alcohol concentration of not higher than 0.02 percent as the legal limit;

(3) Make operating a motor vehicle by an individual under age 21 at or above the legal limit a per se offense; and

(4) Provide for primary enforcement.

§ 1210.5 Certification requirements.

(a) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, to avoid the withholding of funds in any fiscal year, beginning with FY 1999, the State shall certify to the Secretary of Transportation, before the last day of the previous fiscal year, that it meets the requirements of 23 U.S.C. 161, and this part.

(b) The certification shall contain:

(1) A copy of the State zero tolerance law, regulation, or binding policy directive implementing or interpreting such law or regulation, that conforms to 23 U.S.C. 161 and § 1210.4(c) of this part; and

(2) A statement by an appropriate State official, that the State has enacted and is enforcing a conforming zero tolerance law. The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____, has enacted and is enforcing a zero tolerance law that conforms to the requirements of 23 U.S.C. 161 and 23 CFR 1210.4(c).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications it receives to appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the State's zero tolerance legislation changes.

§ 1210.6 Period of availability of withheld funds.

(a) Funds withheld under § 1210.4 from apportionment to any State on or before September 30, 2000, will remain available for apportionment until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under § 1210.4 from apportionment to any State after September 30, 2000 will not be available for apportionment to the State.

§ 1210.7 Apportionment of withheld funds after compliance.

Funds withheld to a State from apportionment under § 1210.4, which remain available for apportionment under § 1210.5(a), will be made available to the State if it conforms to

the requirements of §§ 1210.4 and 1210.5 before the last day of the period of availability as defined in § 1210.6(a).

§ 1210.8 Period of availability of subsequently apportioned funds.

Funds apportioned pursuant to § 1210.7 will remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are apportioned.

§ 1210.9 Effect of noncompliance.

If a State has not met the requirements of 23 U.S.C. 161 and this part at the end of the period for which funds withheld under § 1210.4 are available for apportionment to a State under § 1210.6, then such funds shall lapse.

§ 1210.10 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 161 and this part, based on NHTSA's and FHWA's preliminary review of its law, will be advised of the funds expected to be withheld under § 1210.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with 23 U.S.C. 161 and this part, based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance.

Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 161 and this part, based on NHTSA's and FHWA's final determination, will receive notice of the funds being withheld under § 1210.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

Issued on: February 29, 1996.

Rodney E. Slater,
Administrator, Federal Highway Administration.

Ricardo Martinez,
Administrator, National Highway Traffic Safety Administration.

[FR Doc. 96-5133 Filed 3-6-96; 8:45 am]

BILLING CODE 4910-59-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 70**

[PA65-1; AD-FRL-5436-7]

Clean Air Act Proposed Full Approval of the Operating Permits Program; Approval of Construction Permit and Plan Approval Programs Under Section 112(l); Proposed Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Plan Approval and Operating Permits Under Section 110; Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval of Title V Operating Permit Program and proposed approval of State Operating Permit and Plan Approval Programs.

SUMMARY: The EPA proposes full approval, under Title V of the Clean Air Act (the Act), of the Operating Permits Program submitted by the Commonwealth of Pennsylvania for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. EPA is also proposing to approve Pennsylvania's Operating Permit and Plan Approval Programs pursuant to Section 110 of the Act for the purpose of creating Federally enforceable operating permit and plan approval conditions for sources of criteria air pollutants. In order to extend the federal enforceability of State operating permits and plan approvals to include hazardous air pollutants (HAPs), EPA is also proposing approval of Pennsylvania's plan approval and operating permits program regulations pursuant to Section 112 of the Act. Today's action also proposes approval of Pennsylvania's mechanism for receiving straight delegation of Section 112 standards.

DATES: Comments on this proposed action must be received in writing by April 8, 1996.

ADDRESSES: Comments should be addressed to the contact indicated below. Copies of the State's submittal and other supporting information used in developing these proposed approvals are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Michael H. Markowski, 3AT23, U.S.