

requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009-0211, dated October 6, 2009; PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB-80-0267Rev.0, dated May 19, 2009; and PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB-80-0267Rev.1, dated June 16, 2009, for related information.

Issued in Kansas City, Missouri, on November 20, 2009.

**Margaret Kline,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9-28585 Filed 11-27-09; 8:45 am]

BILLING CODE 4910-13-P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Docket No. SSA-2009-0037]

RIN 0960-AG91

#### Revised Medical Criteria for Evaluating Skin Disorders

**AGENCY:** Social Security Administration.  
**ACTION:** Advance Notice of Proposed Rulemaking; Correction.

**SUMMARY:** This document corrects the Docket No. to the Advance Notice of Proposed rulemaking that published in the **Federal Register** on November 10, 2009, regarding the request for comments on whether and how we should revise the criteria in our Listing of Impairments for evaluating skin disorders in adults and children. In that document, we cited the incorrect docket number for the Advance Notice of Proposed Rulemaking.

**DATES:** To be sure that we consider your comments, we must receive them by no later than January 11, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jane Deweib, Social Insurance Specialist, Office of Medical Listings Improvement, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 965-1020.

#### SUPPLEMENTARY INFORMATION:

##### Correction

The Advance Notice of Proposed Rulemaking published on November 10, 2009 (74 FR 57972) showed a Docket No. of SSA-2009-0057. The correct Docket No. is SSA-2009-0037.

In FR Doc. E9-27033 appearing on page 57972 in the **Federal Register** of Tuesday, November 10, 2009, make the following corrections in the Headings and the Addresses sections. On page

57972, in the second column, in the Headings section change "Docket No. SSA-2009-0057" to "Docket No. SSA-2009-0037." In the third column, the eighth line of the first paragraph under "Addresses" change "Docket No. SSA-2009-0057" to "Docket No. SSA-2009-0037." In the third column, the seventh line of the third paragraph titled "1. Internet" change "Docket No. SSA-2009-0057" to "Docket No. SSA-2009-0037."

Dated November 20, 2009.

**Dean Landis,**

*Associate Commissioner for Regulations, Social Security Administration.*

[FR Doc. E9-28367 Filed 11-27-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 669

[FHWA Docket No. FHWA-2009-0098]

RIN 2125-AF32

#### Certification of Enforcement of the Heavy Vehicle Use Tax

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** This notice sets forth updated FHWA procedures for enforcement of the State registration of vehicles subject to the Heavy Vehicle Use Tax (HVUT). The intent of these actions is to bring FHWA's HVUT regulations up-to-date to be consistent with many changes that have impacted the regulation over the last two decades.

**DATES:** Comments must be received on or before March 1, 2010.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or submit electronically at <http://www.regulations.gov>. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

#### FOR FURTHER INFORMATION CONTACT:

Ralph Erickson, Highway Funding and Motor Fuels Team Leader, Office of Policy, HPPI-10, (202) 366-9235, or Raymond W. Cuprill, Office of the Chief Counsel, (202) 366-0791, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access and Filing

You may submit or retrieve comments online through the Federal Docket Management System at: <http://www.regulations.gov>. Regulations.gov is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.gpoaccess.gov/fr/index.html> and the Government Printing Office's Web page at: <http://www.gpoaccess.gov>.

##### Background

In the Surface Transportation Assistance Act of 1982, Congress established the HVUT. The purpose of the tax is to impose a road use charge that has some relation to the costs occasioned by the vehicle (heavier vehicles cause more road damage than light vehicles, and therefore should pay a higher highway funding contribution). The FHWA Cost Allocation studies<sup>1</sup> demonstrated that damage to the roadway resulting from a doubling of the weight of a vehicle caused an exponential increase in the amount of damage to the roadway than would have been caused by the lower weight. To compensate for this additional damage (costs occasioned), Congress established the HVUT as a way to recover from those vehicles the additional costs they impose. Very briefly, the HVUT imposes a tax on vehicles with a gross vehicle weight of 55,000 pounds and over using a sliding scale up to \$550 per year payable to the Internal Revenue Service (IRS). When the HVUT has been paid the vehicle is eligible to be registered by the State. Provisions allow for

<sup>1</sup> Final Report on the Federal Highway Cost Allocation Study: Report of the Secretary of Transportation to the United States Congress Pursuant to Section 506 Public Law 95-599, Surface Transportation Assistance Act of 1978: U.S. Department of Transportation, May, 1982. Federal Highway Cost Allocation Study: U.S. Department of Transportation, August, 1997.

temporary and partial-year vehicle registrations.

The FHWA's responsibility in the administration of the HVUT is to ensure that the States are obtaining proof of payment of the HVUT before registering these vehicles to operate on the roadways. The agency has published regulations at 23 CFR part 669 implementing the requirements of this program as established by Federal law at 23 U.S.C. 141(c). In accordance with this Federal law, a State's annual apportionment of Interstate Maintenance funds under 23 U.S.C. 104(b)(4) may be reduced by up to 25 percent in any fiscal year during which heavy vehicles subject to HVUT may be lawfully registered in the State without having presented proof of payment of the tax. Part 669 of Title 23, Code of Federal Regulations, established a certification program to ascertain State compliance with these requirements and procedures for evaluating State compliance and for any required reduction of funds. This rulemaking proposes to modify existing FHWA procedures for enforcement of the State registration of vehicles subject to the HVUT. The regulation (originally published on July 14, 1986, at 51 FR 25364) would be updated to make it consistent with several changes in applicable law and technology, and with regulations recently promulgated by the IRS. The regulation is also being revised to address several issues that were not covered adequately in the original rulemaking. The proposed revisions are discussed in the section analysis below.

### History

The HVUT tax was imposed by Congress in section 143 of the Surface Transportation Assistance Act of 1982, Public Law 97-424. This section of law was codified into the United States Code as 23 U.S.C. 141, which provides for State certification of enforcement of laws respecting maximum vehicle size and weight. The amendment added a provision to section 141 that provides that a State's annual apportionment of Interstate Maintenance funds may be reduced by up to 25 percent in any fiscal year during which heavy vehicles subject to HVUT may be lawfully registered in the State without having presented proof of payment of the tax.

On July 14, 1986, the FHWA published in the *Federal Register* (51 FR 25363) a final rule implementing the requirements of this statute in 23 CFR part 669—Enforcement of Heavy Vehicle Use Tax. The notice set forth procedures to be followed by each State for certifying that it is obtaining

evidence of proof of payment of the Federal heavy vehicle use tax in accordance with 23 U.S.C. 141 for vehicles subject to the use tax imposed by Section 4481 of the Internal Revenue Code of 1954, as amended, before such vehicles are lawfully registered in the State. An annual certification of compliance is required. Procedures are specified for reducing a State's apportionment of highway funds in accordance with 23 U.S.C. 141 in the event a State fails to meet the requirements of the regulation.

The FHWA is proposing revisions to its regulation to provide compatibility with the revised IRS rules. Over the decades since 1986, the IRS has updated its procedures for implementing the HVUT proof of payment. The current regulations, found in 26 CFR 41.6001-2<sup>2</sup>, entitled "proof of payment for State registration purposes," sets forth circumstances under which a State must require proof of payment of the tax imposed by Section 4481(a), and the required manner in which such proof of payment is to be received by the State as a condition of issuing a registration for a highway motor vehicle. A State must either comply with the provisions of this section or comply with such other rules regarding the satisfaction of this proof of payment requirement as may be prescribed by the Commissioner in order to avoid a reduction of Federal-aid highway funds apportioned under 23 U.S.C. 104(b)(4).

### Section-by-Section Discussion of the Proposals

The FHWA is proposing to revise the regulation at 23 CFR part 669—Certification of Enforcement of Heavy Vehicle Use Tax as follows:

The authority section and sections 669.1, 669.2, 669.9, and 669.15 would be amended to replace all references to 23 U.S.C. 141(d) with 23 U.S.C. 141(c). Public Law 104-59, title II, Sec. 205(d)(1)(A), Nov. 28, 1995, 109 Stat. 577, re-designated subsection (d) of section 141 as (c), and as a result the statutory provisions related to the HVUT program now appear at 23 U.S.C. 141(c). The FHWA proposes to revise the regulation to reflect this change in the statute.

Section 669.13 and 669.15 would be amended to revise the statutory reference to the funding sanction for non-enforcement of the HVUT

requirements which currently appears as withholding State apportionments under 23 U.S.C. 104(b)(5), and which referred to the Interstate Maintenance funding category. Section 104(b)(5) was changed to section 104(b)(4) by Public Law 105-178, title I, Sec. 1103(l)(3)(C), June 9, 1998, 112 Stat. 126, and as a result we are proposing to change these sections of the regulation to reference section 104(b)(4), the correct reference to the Interstate Maintenance funding category.

The regulation at 23 CFR 669.7 requires the States to submit the annual certification by July 1 of every year. The FHWA proposes to move this deadline to January 1. A January 1 deadline date would provide FHWA with needed time to review the certifications and determine whether the State has met its responsibilities prior to the issuance of the advance notices of apportionment to the States, which normally occurs on July 1. This January 1 deadline for certification submissions would also be the same as other certifications that are submitted by the States to FHWA for review as part of other certification programs, and will simplify these submissions for the States.

Similarly, the FHWA is proposing to amend sections 669.15 and 669.17 to adopt a compliance procedure similar to that adopted in other certification programs that utilize the notices of apportionments for providing notice of non-conformity and opportunity for review. The existing procedure in the regulation is cumbersome and requires the issuance by the FHWA

Administrator of a proposed written determination of non-conformity in cases of failure to certify or not adequately enforcing the HVUT requirements. The Administrator must also provide notification of the determination by certified mail. In addition, the written determination provides notice to the State of the opportunity to request within 30 days a conference on the record to show cause why it should not be found in nonconformity, or provide any information in writing. Following the conference the Administrator is to issue a final determination of compliance, which is served on the Governor. This procedure is somewhat different from other FHWA administered certification and compliance programs, in which the compliance procedure is tied to the notices of apportionments issued by the FHWA, and which indicate the amount of funds to be apportioned for each FHWA administered program and the amount of any required funding sanction. The FHWA is proposing revised procedures that would parallel

<sup>2</sup> 26 CFR 41 subpart A, entitled *Introduction*, subpart B entitled *Tax on Use of Certain Highway Motor Vehicles*, and Subpart C, entitled *Administrative Provisions of Special Application to Tax on use of Certain Highway Motor Vehicles*, Sections 41.0-1, 41.4481 through 41.4483-7, and 41.600101 through 41.6156-1.

other FHWA and National Highway Traffic Safety Administration funding sanction procedures<sup>3</sup> that are simpler to administer, are familiar to the States, and yet provide States with sufficient notification of a preliminary non-compliance determination and the right to request a review of FHWA's preliminary non-compliance determination and demonstrate State compliance. Pursuant to the proposed procedures the preliminary notice of nonconformity would be issued with the advance notice of apportionments required under 23 U.S.C. 104(e), together with notice of the funds expected to be withheld from apportionment. A State would have 30 days to submit documentation to the FHWA showing why it is in conformity. The FHWA would then issue a final determination to the State and if found in nonconformity, the State will receive notice of the funds being withheld from apportionment as part of the certification of apportionments, which normally occurs on October 1 of each year.

Section 669.21 makes reference to IRS regulations in 26 CFR 41.600-2 on what constitutes proof of payment and that States retain proof of payment (copy of the receipted 2290) for at least 1 year. The existing FHWA regulation makes no provision for proof of payment inspection or recordkeeping when a State, local jurisdiction in the State, branch offices of a State registration system, or private contractors providing these services to any of the above, are administering vehicle registrations. However, legislation in several States allows for the local registration of vehicles within the State. In a few cases, States also have private agencies licensed to provide highway vehicle registration services to either the State or to the local jurisdictions. The FHWA, therefore, proposes that all these entities be required in the regulation to provide proof of payment recordkeeping responsibilities. The FHWA regulation also provides for the storage of proof of payment records using technologies such as microfilm and microfiche, which may now be outdated. The FHWA is proposing to replace this language with revised language that would allow for use of computerized software for tracking HVUT proof of payments, yet retains the requirement

that proof of payment meet IRS standards.

#### **Rulemaking Analyses and Notices**

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

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

The FHWA has determined preliminarily that this action would not be a significant regulatory action within the meaning of Executive Order 12866 or would not be significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. The textual corrections, updates to refer to numerical section changes in law, and change in timing of the certification compliance create no changes to the economic cost due to the regulation. The record retention requirements do pose some additional burden by requiring the ability to scan all submitted IRS Form 2290s into a computerized record (according to IRS national data, approximately 2.5 million trucks fit this criteria) and keep those records for 1 year. The change in administrative procedures to remove the FHWA administrator from the fund reduction action provides governmental efficiency. Therefore, there is little economic impact and the FHWA concludes that this is not a significant regulatory action under the definitions provided.

These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, 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 FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities.

The additional recordkeeping requirements are designed to support the verification that will help determine if any evasion is present. Smaller States may find this additional burden cumbersome. According to FHWA 2007 data, three States and the District of Columbia registered less than 3,000 trucks. These jurisdictions may find the additional recordkeeping requirements expensive given the number of trucks subject to the HVUT tax. These points do not amount to significant impacts and the FHWA therefore certifies that this action would not have a significant economic impact on a substantial number of small entities.

#### **Unfunded Mandates Reform Act of 1995**

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532). The only change in the regulation that impacts costs is the recordkeeping provisions. Since the States and other vehicle registration entities already keep vehicle registration files, the additional burden by requiring the ability to scan all submitted IRS Form 2290s into a computerized record (as noted above, approximately 2.5 million trucks fit this criteria) and keep those records for 1 year does have a cost impact, but not enough to exceed the significance threshold.

#### **Executive Order 13132 (Federalism Assessment)**

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

<sup>3</sup> Drug Offender Driver's License Suspension Program, 23 CFR 192.10; Minimum Drinking Age Program, 23 CFR 1208.6; Zero Tolerance Laws, 23 CFR 1210.10; 0.08 BAC Per Se Laws Program, 23 CFR 1225.12; Open Container Program, 23 CFR 1270.8; Repeat Intoxicated Driver Laws, 23 CFR 1275.8.

### Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Accordingly, the FHWA solicits comments on this issue.

### Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does contain collection of information requirements for the purposes of the PRA. The FHWA believes that the information collected under this action is contained in the existing information collection under OMB Control Number 2125-0541 granted by OMB on February 1, 2008.

### National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this proposed action would not have any effect on the quality of the environment.

### Regulation Identification Number

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

### List of Subjects in 23 CFR Part 669

Grants programs—transportation, Highways and roads, Taxes, Motor vehicles.

Issued on: October 28, 2009.

**Victor M. Mendez,**  
*Administrator.*

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations part 669 as follows:

### PART 669—ENFORCEMENT OF HEAVY VEHICLE USE TAX

1. The authority citation for part 669 is revised to read as follows:

**Authority:** 23 U.S.C. 141(c) and 315; 49 CFR 1.48(b).

2. Revise § 669.7 to read as follows:

#### § 669.7 Certification requirement.

The Governor of each State, or his or her designee, shall certify to the FHWA before January 1 of each year that it is obtaining proof of payment of the heavy vehicle use tax as a condition of registration in accordance with 23 U.S.C. 141(c). The certification shall cover the 12-month period ending September 30.

#### § 669.9 [Amended]

3. Amend § 669.9 by amending paragraphs (b) and (c) by removing the words “23 U.S.C. 141(d)” and adding in its place the words “23 U.S.C. 141(c)” each place it appears.

#### § 669.11 [Amended]

4. Amend § 669.11 by removing the word “July” and adding in its place the word “January”.

5. Revise § 669.13 to read as follows:

#### § 669.13 Effect of failure to certify or to adequately obtain proof of payment.

If a State fails to certify as required by this regulation or if the Secretary of Transportation determines that a State is not adequately obtaining proof of payment of the heavy vehicle use tax as a condition of registration notwithstanding the State's certification, Federal-aid highway funds apportioned to the State under 23 U.S.C. 104(b)(4) for the next fiscal year shall be reduced in an amount up to 25 percent as determined by the Secretary.

6. Revise § 669.15 to read as follows:

#### § 669.15 Procedure for the reduction of funds.

(a) Each fiscal year, each State determined to be in nonconformity with the requirements of this part will be advised of the funds expected to be withheld from apportionment in accordance with § 669.13 and 23 U.S.C. 141(c), as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than 90 days prior to final apportionment.

(b) A State that received a notice in accordance with paragraph (a) of this section may within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in conformity with this Part. Documentation shall be submitted to the Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(c) Each fiscal year, each State determined to be in nonconformity with the requirements of this part and 23 U.S.C. 141(c), based on FHWA's final

determination, will receive notice of the funds being withheld from apportionment pursuant to § 669.3 and 23 U.S.C. 141(c), 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.

#### § 669.19 [Amended]

7. Amend § 669.19 as follows:

a. Amend paragraphs (a) and (b) by removing the words “23 U.S.C. 104(b)(5)” and adding in its place the words “23 U.S.C. 104(b)(4)” in each place it appears; and

b. Amend paragraph (c) by removing the word “Secretary's”.

8. Revise § 669.21 to read as follows:

#### § 669.21 Procedure for evaluating State compliance.

The FHWA shall periodically review the State's procedures for complying with 23 U.S.C. 141(c), including an inspection of supporting documentation and records. In those States where a branch office of the State, a local jurisdiction, or a private entity is providing services to register motor vehicles including vehicles subject to HVUT, the State shall be responsible for ensuring that these entities comply with the requirements of this part concerning the collection and retention of evidence of payment of the HVUT as a condition of registration for vehicles subject to such tax and develop adequate procedures to maintain such compliance. The State or other responsible entity shall retain a copy of the receipted IRS Schedule 1 (Form 2290), or an acceptable substitute prescribed by 26 CFR 41.6001-2 for a period of 1 year for purposes of evaluating State compliance with 23 U.S.C. 141(c) by the FHWA. The State may develop a software system to maintain copies or images of this proof of payment.

[FR Doc. E9-27939 Filed 11-27-09; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 202

[Docket No. FR 5356-P-01]

RIN 2502-A181

### Federal Housing Administration (FHA): Continuation of FHA Reform— Strengthening Risk Management Through Responsible FHA-Approved Lenders

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.