

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 96

RIN 0930-AA01

Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grants

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Final rule.

SUMMARY: On August 26, 1993, the Department of Health and Human Services (HHS) published a Notice of Proposed Rulemaking (NPRM) to implement section 1926 of the Public Health Service (PHS) Act regarding the sale and distribution of tobacco products to individuals under the age of 18. The Secretary requested comments on the NPRM and gave 60 days for individuals to submit their written comments to the Department. The Secretary has considered the comments received during the open comment period and is issuing the final regulation in light of those comments.

EFFECTIVE DATE: February 20, 1996.

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SUPPLEMENTARY INFORMATION: The Department is finalizing the rule entitled "Substance Abuse Prevention and Treatment Block Grants: Sale or Distribution of Tobacco Products to Individuals Under 18 Years of Age," which was published as a NPRM in the Federal Register on August 26, 1993 (58 FR 55156). The final rule is developed in accordance with section 1926 of the PHS Act, 42 U.S.C. 300x-26, as amended.

Relationship to proposed Food and Drug Regulations Restricting the Sale and Distribution of Tobacco Products

On August 10, 1995, President Clinton announced the issuance of proposed "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" by the Food and Drug Administration (FDA) (60 FR 41314, Aug. 11, 1995). If promulgated, these regulations would restrict minors' access to nicotine-containing tobacco products and would reduce the amount of positive imagery that makes these products attractive to young people. The basis for FDA's tentative conclusion

establishing its jurisdiction over these tobacco products is set forth in the FDA NPRM's accompanying proposed jurisdictional analysis. (Federal Register, Volume 60, No. 155, page 41453, August 11, 1995).

The final rule being issued today will complement and be consistent with any rule that FDA promulgates, when and if FDA does so. While this final rule is directed to the States and the FDA proposal focuses on the tobacco industry and retailers, they are both designed to help address the serious public health problem caused by young people's use of and addiction to nicotine-containing tobacco products. By approaching this public health problem from different perspectives, these actions together would help achieve the President's goal of reducing the number of young people who use tobacco products.

The regulatory approaches reflect major differences in the statutory authorities of the respective agencies. In addition to requiring States to have in effect laws which prohibit the sale of tobacco products to minors as a condition of receipt of a grant, this rule requires that States enforce such laws, and meet certain negotiated rates of compliance so as not to suffer a reduction in block grant allotments as prescribed by law. On the other hand, the FDA proposal addresses the conduct of tobacco manufacturers, distributors, and retailers. The FDA proposal seeks to reduce young people's use of tobacco by placing certain restrictions on the sale, distribution, advertising, and promotion of tobacco products to minors. Thus, these two regulatory actions both address the need to reduce minors' access to tobacco products, and the FDA proposal further attempts, through its advertising provisions, to reduce the powerful appeal of tobacco products to children and adolescents.

Background on the Notice of Proposed Rulemaking and Summary of Responses to Public Comment

A. Notice of Proposed Rulemaking

The NPRM proposed regulations to implement section 1926 of the PHS Act. Section 1926 provides that "the Secretary may not make a [Substance Abuse Prevention and Treatment block] grant to a State for the first applicable fiscal year and all subsequent fiscal years unless the State has in effect a law prohibiting any manufacturer, retailer or distributor of tobacco products from selling or distributing such products to any individual under the age of 18." According to section 1926(a)(2), States are to have such laws in place for

receipt of FY 1994 Substance Abuse Prevention and Treatment (SAPT) Block Grant funds unless a State's legislature does not convene a regular session in FY 1993 or 1994, in which case a State must have such a law in place for receipt of FY 1995 funds. The Secretary proposed to implement this statutory provision by requiring States to have in place a law that prohibits the sale or distribution of any tobacco product to individuals under the age of 18 (minors) through any sales or distribution outlet. This would include sales or distribution from any location which sells at retail or otherwise distributes tobacco products to consumers, including locations that sell such products over-the-counter or through vending machines. Beyond this, the Secretary did not propose specifying the provisions of the States' laws.

Section 1926(b) of the PHS Act requires States, as a condition of receipt of a grant, to enforce such laws "in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18." In enforcing such laws, section 1926(b)(2)(A) requires the States to conduct random, unannounced inspections. The NPRM proposed a regulation to require States to have "well-designed procedures" in place for reducing the likelihood or prevalence of violations. Examples of such procedures were provided in the regulation. The Secretary also proposed that the State, at a minimum, enforce the law using both random and targeted unannounced inspections of both over-the-counter and vending machine outlets. It was proposed that the random, unannounced inspections be conducted annually and be conducted in such a way as to ensure a scientifically sound estimate of the success of enforcement actions being taken throughout the State.

Section 1926(b)(2)(B) of the PHS Act requires the States to annually submit to the Secretary a report describing the strategies and activities carried out by the State to enforce such law during the fiscal year for which the State is seeking the grant, and the extent of success the State has achieved in reducing the availability of tobacco products to minors. The NPRM essentially requested this information. As part of such information, the NPRM proposed, among other things, to require States to report on the results of the unannounced inspections and to provide a detailed description of how the unannounced inspections were conducted and the methods used to identify outlets to be inspected.

Section 1926(c) of the PHS Act requires the Secretary to determine whether the State has maintained compliance with the enforcement requirements of the statute. If the Secretary determines that a State has not maintained such compliance, the Secretary is required to decrease the Block Grant from 10 to 40 percent depending on the fiscal year involved. In determining enforcement compliance, the Secretary proposed the following: the State must demonstrate that its random, unannounced inspections were conducted in a scientifically sound manner and the data submitted by the State in the annual report must show that the percentage of the retailers or distributors involved in the random, unannounced inspections making illegal sales does not exceed 50 percent during the first applicable fiscal year, 40 percent in the second applicable fiscal year, 30 percent in the third applicable fiscal year and 20 percent in the fourth applicable fiscal year and subsequent fiscal years. If a State does not maintain material compliance with the above-mentioned criteria, the Secretary, in extraordinary circumstances, may consider a number of other factors such as a scientifically sound survey indicating that the State is making significant progress toward reducing use of tobacco products by minors.

B. Public Comment and Department's Response

During the 60-day comment period that ended on October 26, 1993, the Department received 354 letters providing comments on the NPRM. These comments spanned a wide range of concerns and issues. They presented a complex mix of support for and opposition to the Department's proposal. The preamble sections below summarize these views and provide the Department's responses to them.

General Comments

Numerous commenters, including State agencies, State legislators and Governors, claimed the NPRM was redundant and unnecessary. They argued that States currently have laws in place that prohibit the sale of tobacco to minors, and they felt the Department was forcing the States to create redundant laws.

This regulation does not require redundant or duplicate laws at the State level; rather it requires that States have in effect a law providing that it is unlawful for any manufacturer, retailer or distributor to sell or distribute tobacco products to individuals under the age of 18. In the event that a State

does not have such a law in place, one is required if the State wishes to receive an SAPT Block Grant. At the time of passage of section 1926 of the PHS Act, the majority of States had laws in place that complied with the requirement of section 1926(a).

Many commenters raised concerns about the short timeframe within which the regulation was to be implemented. These concerns primarily centered on the time it would take to develop an inspection sampling frame and to design and conduct inspections. The Department recognizes the difficulties States may face in complying with these requirements and enforcing their laws sufficiently to reduce the extent to which tobacco products are available to individuals under the age of 18, as required by section 1926. As discussed later in this preamble, States will be provided time to develop an effective inspection system.

Some commenters argued that the Department was not allowing retailers and States time to demonstrate the success of industry or other State programs designed to restrict youth access. The Department notes that the statute specifically requires that, for most States, enforcement of their laws must occur in FY 1994 and that States must enforce their laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to minors. Section 1926 also requires States to conduct random, unannounced inspections. The Department cannot, therefore, delay the implementation of these statutory provisions.

Several commenters argued that the Department should place responsibility on minors for complying with this law rather than targeting retailers with such responsibility. Other commenters took the opposing view and cautioned against requiring penalties against minors for purchasing tobacco products.

The statute does not give the authority to the Department to require laws prohibiting the purchase of tobacco products by minors nor to regulate the conduct of retailers. However, States are required under section 1922 of the PHS Act to develop primary prevention activities to reduce tobacco use by minors in keeping with 45 CFR 96.125. The Preventive Health and Health Services Block Grant, sections 1901, *et seq.*, of the PHS Act, administered by the Centers for Disease Control and Prevention (CDC) also provides assistance to States to implement strategies to prevent tobacco use among all populations, including minors. These prevention strategies targeted to minors will serve to reinforce the

enforcement strategies required by section 1926.

Definitions

A number of commenters believed that, by specifically including vending machines in the definition of a retail outlet and by requiring a separate reporting requirement, the Department was proposing more stringent enforcement requirements on outlets than are required by the law. In addition, many commenters from State agencies argued that most States do not have legislation in place with regard to controls on vending machines and, therefore, that they would have difficulty complying with the regulation if it included vending machines as a type of outlet.

The Department defines "outlet" as "any location which sells at retail or otherwise distributes tobacco products to consumers including (but not limited to) locations that sell such products over-the-counter or through vending machines." The Department is requiring States to have laws in place during the first applicable fiscal year which make it illegal for a manufacturer, retailer, or distributor of tobacco products to sell or distribute any such products to an individual under the age of 18 through any sales or distribution outlet, including over-the-counter and vending machine sales. The Department believes that this construction of section 1926 of the PHS Act, *i.e.*, covering vending machines, reasonably carries out the intent of Congress, and the Department believes that, if only over-the-counter sales were prohibited, minors would purchase tobacco products from vending machines as access to over-the-counter tobacco products becomes more difficult.

With respect to timing, we point out that States have now had several years since enactment of section 1926 and publication of our proposed rule, to pass necessary legislation and to take other steps to begin effective enforcement of their laws against sale and distribution to minors.

Random Unannounced Inspections

Many commenters suggested that the Department require States to use "sting" operations, in which minors would attempt to purchase tobacco products, either over-the-counter or from a vending machine, as the most efficient and effective method of carrying out such inspections. The NPRM gave the States flexibility in implementing the requirement for random, unannounced inspections, and it did not require "stings." The Department sees no reason at this time to change that policy. While

State Target and Reported Retailer Violation Rates

State	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018								
AL	35.0	29.0	21.0	24.0	15.6	20.0	16.8	20.0	20.0	19.5	20.0	17.0	20.0	9.1	8.7	13.9	9.3	11.2	10.3	11.7	10.9	7.6	8.2	7.5	7.6	8.5	6.6			
AK	34.3	30.0	29.0	25.0	23.5	20.0	34.0	20.0	20.0	28.0	27.2	20.0	20.0	30.2	10.2	12.1	9.4	13.6	9.2	15.1	9.0	7.6	6.5	7.3	4.2	7.4	5.5	5.4	4.7	
AZ	56.0	45.0	12.2	35.0	19.6	27.0	22.7	20.0	20.3	20.0	12.8	8.9	8.3	7.6	14.6	5.7	6.7	4.8	5.9	4.3	5.8	3.8	3.8	4.0	14.8	10.5	12.7			
AR	N/A	N/A	22.3	20.0	22.0	20.0	11.1	20.0	21.9	20.0	14.8	20.0	11.5	16.6	4.2	2.2	4.7	4.2	4.8	4.5	3.4	3.3	3.7	3.0	3.0	4.1	2.6			
CA	29.3	27.0	21.7	22.0	13.1	20.0	16.9	20.0	12.8	20.0	17.1	20.0	19.3	12.2	14.0	10.2	13.2	10.7	12.6	8.6	7.7	5.6	8.7	7.6	9.0	7.6	10.3	5.7		
CO	41.3	32.0	18.6	28.0	27.9	24.0	15.8	24.0	6.0	22.0	7.2	20.0	5.4	10.5	9.0	12.2	7.2	8.5	11.0	7.9	7.0	8.3	9.1	8.3	6.2	9.0	7.9	5.7		
CT	69.7	60.0	58.8	45.0	35.0	30.0	17.3	25.0	18.1	20.0	13.1	20.0	12.0	18.9	18.0	10.6	11.4	14.0	13.7	9.7	13.3	11.3	12.1	14.8	13.3	9.0	10.7	8.8		
DE	29.3	25.0	N/A	25.0	33.2	32.0	33.5	28.0	18.0	24.0	10.2	20.0	20.0	15.7	3.9	3.5	5.0	2.8	2.2	3.1	8.1	9.5	2.9	4.8	6.7	4.6	3.4			
DC	42.3	40.0	33.9	30.0	46.9	30.0	25.1	25.0	25.4	23.0	15.5	20.0	20.0	15.7	41.9	20.5	12.6	13.9	15.7	9.2	12.5	14.7	8.6	10.2	12.7	3.6	5.8			
FL	7.2	20.0	7.1	20.0	7.8	20.0	8.0	20.0	8.3	20.0	7.7	20.0	20.0	7.1	7.0	7.3	8.1	6.2	7.3	10.2	6.2	8.4	13.8	8.2	10.5	14.2	12.8	9.2		
GA	48.0	44.0	20.5	35.0	12.9	28.0	23.6	20.0	20.0	20.0	13.2	20.0	10.6	6.2	16.5	16.4	14.2	14.2	8.7	12.1	9.5	14.1	10.3	10.0	9.8	11.6	9.4	7.7		
HI	44.5	35.0	23.0	28.0	15.0	22.0	11.3	20.0	7.0	20.0	7.7	20.0	6.0	6.2	5.3	5.6	5.9	8.7	11.2	6.2	4.6	5.9	4.2	7.5	2.9	3.3	4.6	5.3		
ID	56.2	45.0	12.6	32.0	27.1	25.0	31.8	28.0	18.8	24.0	18.9	20.0	10.5	14.7	12.3	12.0	13.2	13.8	11.5	15.3	14.3	6.9	7.5	6.5	6.9	8.0	7.8	4.5		
IL	43.5	38.0	26.1	30.0	12.9	25.0	11.5	20.0	15.3	20.0	11.5	20.0	13.9	16.8	6.4	6.0	9.5	5.3	12.5	6.0	4.0	15.5	11.4	16.0	17.0	15.9	11.4	16.1		
IN	40.9	35.0	24.3	30.0	26.0	25.0	27.9	23.0	24.5	20.0	19.4	16.6	11.9	14.8	9.9	14.7	11.2	9.5	5.7	5.3	7.0	10.6	12.3	14.4	14.6	17.9				
IA	40.1	30.0	27.0	25.0	36.1	34.0	33.4	31.0	29.3	28.0	18.0	20.0	11.0	5.2	11.4	8.2	11.8	11.6	10.0	8.2	8.7	8.2	7.5	7.7	5.5	7.7	8.7	10.5		
KS	63.0	50.0	47.0	38.0	35.0	30.0	29.3	27.0	22.7	25.0	21.1	20.0	20.6	22.1	38.0	19.2	19.9	12.9	15.9	8.3	7.8	7.6	3.1	8.5	12.1	11.0	8.4	11.5		
KY	N/A	N/A	24.4	20.0	14.0	19.7	20.0	20.0	13.3	20.0	12.3	20.0	9.7	6.7	7.4	7.3	6.7	4.7	6.2	7.2	7.1	4.3	5.4	5.7	5.4	7.8	5.7	7.0		
LA	72.7	60.0	39.0	45.0	20.3	33.0	6.7	26.0	6.5	20.0	8.5	20.0	20.0	5.7	7.4	7.3	6.7	6.7	7.2	7.2	4.3	4.3	5.4	5.4	17.8	14.1	9.1			
ME	16.7	20.0	12.5	20.0	4.1	20.0	6.3	20.0	9.0	20.0	6.7	20.0	7.3	8.8	8.8	5.3	5.8	5.8	5.2	4.6	4.2	1.8	2.7	4.1	2.6	3.0	3.3	10.6		
MD	54.3	44.0	36.1	34.0	35.4	33.0	33.0	32.5	30.0	25.4	25.0	25.0	20.0	10.4	12.1	8.0	8.9	9.5	15.7	5.1	16.8	17.0	17.3	16.8	24.1	31.4	13.8	13.9		
MA	30.3	26.0	16.8	22.0	19.3	20.0	14.0	20.0	18.4	20.0	9.7	20.0	20.0	8.9	11.6	15.2	18.2	22.7	10.3	11.6	13.7	7.1	9.6	12.3	10.2	11.2	12.3	11.2	8.1	
MI	41.0	35.0	20.0	26.0	26.0	22.0	29.5	24.0	24.0	26.8	26.0	17.2	20.0	15.7	18.7	19.4	15.0	14.5	15.3	14.3	14.1	18.8	14.9	10.7	13.2	18.0	15.5	13.1	10.7	
MN	30.2	26.0	28.1	21.0	31.6	28.5	27.7	25.0	19.2	22.0	19.0	20.0	20.0	15.5	12.1	13.7	13.4	9.5	7.9	8.3	9.0	4.1	2.4	1.0	2.6	4.9	8.1	4.6	9.5	
MS	40.0	35.0	30.5	30.0	32.7	29.0	29.9	27.0	11.6	22.0	5.7	20.0	7.7	3.9	6.0	3.2	3.2	3.8	3.8	5.1	2.3	1.8	3.6	2.7	4.1	2.6	1.7	5.0		
MO	40.3	35.0	29.2	28.0	34.5	30.0	26.7	27.0	15.3	24.0	16.7	20.0	20.0	11.0	8.9	11.5	6.4	6.3	5.6	9.6	7.5	10.6	10.2	10.4	7.4	7.2	11.3	7.7	13.0	
MT	N/A	N/A	37.0	32.0	34.9	27.0	24.7	24.0	21.8	22.0	22.7	20.0	20.0	19.3	11.2	14.5	15.5	14.5	10.7	4.1	4.1	3.6	3.0	3.2	2.8	1.5	2.9	5.5		
NE	39.0	30.0	23.4	25.0	23.8	23.0	23.2	22.0	15.0	20.0	18.9	20.0	20.0	18.3	11.4	15.3	14.4	16.4	11.4	12.1	13.5	10.7	10.6	14.0	16.4	16.3	9.0	9.9	10.2	
NV	N/A	N/A	19.8	20.0	16.8	20.0	23.0	23.0	22.9	20.0	21.2	20.0	20.0	21.2	20.0	18.3	15.3	14.4	14.4	9.9	5.2	6.3	1.1	3.1	1.0	0.0	4.3	1.1	1.4	4.4
NH	15.7	20.0	N/A	N/A	11.8	20.0	20.0	20.0	7.6	20.0	9.7	20.0	20.0	10.5	20.0	20.0	20.0	20.0	20.0	20.0	20.0	20.0	11.9	11.6	12.3	14.5	16.8	13.0	13.0	

Federal Fiscal Year

State Target and Reported Retailer Violation Rates

State	Federal Fiscal Year ¹																												
	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018							
NJ	44.4	35.0	27.0	28.0	26.5	26.0	23.2	25.0	24.6	24.0	22.1	20.0	15.9	13.0	12.6	15.6	11.2	12.2	11.9	4.6	8.5	10.2	7.7	11.6	8.5	18.5	17.8	13.6	
NM	38.0	30.0	23.0	25.0	13.5	20.0	18.9	20.0	11.8	20.0	11.6	20.0	9.8	14.9	6.4	7.7	9.3	10.2	6.1	7.4	11.6	5.2	7.9	10.4	3.8	10.2	9.5	6.1	
NY	38.1	30.0	22.9	25.0	19.7	20.0	18.6	20.0	15.5	20.0	13.0	20.0	11.6	9.4	9.5	11.7	9.2	6.1	7.0	6.1	5.6	5.8	4.8	4.6	5.8	5.3	4.0	5.4	
NC	49.7	41.0	44.9	34.0	25.9	28.0	24.7	24.0	20.1	22.0	19.9	20.0	18.0	14.8	16.8	14.8	10.3	11.5	17.4	14.8	10.3	13.9	13.5	15.1	18.2	16.0	14.3	18.5	
ND	N/A	N/A	31.3	32.0	32.4	26.0	18.0	28.0	11.8	24.0	16.8	20.0	6.5	7.3	6.9	8.2	10.1	5.8	1.6	5.9	9.7	11.6	9.3	14.1	10.8	17.8	3.4	7.7	
OH	34.0	30.0	22.8	25.0	22.2	21.2	21.3	20.2	21.4	20.0	22.6	20.0	16.6	13.5	14.3	12.0	11.6	17.0	15.9	13.5	9.9	10.4	16.6	19.1	26.2	17.8	10.8	18.7	
OK	48.3	38.0	30.0	30.0	24.9	25.0	20.3	20.0	19.2	20.0	22.4	20.0	20.1	10.0	13.9	9.6	9.0	12.5	17.9	9.4	11.5	6.8	8.4	7.8	16.0	14.1	13.0	17.9	
OR	N/A	N/A	23.6	20.0	29.0	27.0	18.3	25.0	23.2	23.0	16.3	20.0	17.5	16.3	14.6	17.8	11.0	15.6	18.8	16.7	19.3	17.9	22.5	16.3	21.3	5.8	4.5	9.9	
PA	55.6	42.0	29.5	31.0	31.5	30.0	41.0	29.0	26.7	25.0	27.9	20.0	14.5	10.8	7.0	8.1	7.0	6.8	5.1	5.5	6.1	9.6	9.5	10.5	12.9	10.5	9.9	7.3	
RI	35.0	30.0	NR	25.0	30.0	27.0	26.8	24.0	21.2	21.0	12.3	20.0	10.2	16.9	9.5	9.1	8.0	11.1	11.7	9.3	11.1	9.9	11.3	8.7	14.2	11.0	12.0	11.7	
SC	35.0	32.0	22.6	24.0	24.7	20.0	19.8	20.0	18.7	20.0	17.1	20.0	15.5	11.9	11.5	10.9	12.3	12.4	11.6	10.8	7.9	9.5	11.7	10.6	5.3	7.7	5.4	3.7	
SD	31.0	26.0	12.9	20.0	18.2	20.0	9.0	20.0	8.1	20.0	4.5	20.0	7.6	8.5	7.1	6.5	15.6	8.3	9.2	7.1	3.6	4.0	3.6	10.3	2.5	2.3	6.2	7.3	
TN	62.9	50.0	37.0	40.0	24.2	32.0	31.3	25.0	26.2	20.0	20.4	20.0	22.3	13.5	10.9	13.0	16.3	10.9	13.1	14.9	16.1	16.7	13.7	13.5	9.8	8.3	7.5	6.8	
TX	N/A	N/A	24.0	20.0	13.0	20.0	14.6	20.0	13.4	20.0	12.9	20.0	15.7	23.8	15.5	12.4	7.2	13.4	11.3	11.3	9.0	11.3	7.6	7.6	7.6	9.0	10.1	9.0	9.7
UT	35.0	29.0	28.0	24.0	18.6	20.0	16.4	20.0	18.6	20.0	18.8	20.0	12.4	8.9	8.0	8.5	9.9	8.4	8.4	7.0	7.1	7.6	5.3	7.9	4.8	8.2	7.2	6.6	
VT	27.5	20.0	7.7	20.0	7.3	20.0	20.0	20.0	14.9	20.0	19.7	20.0	14.6	15.9	12.7	13.1	10.7	14.0	12.9	9.5	11.2	9.5	10.2	8.8	10.8	13.6	11.5	5.0	
VA	43.6	31.0	32.3	25.0	18.6	27.1	27.1	26.0	23.3	20.0	18.5	20.0	11.7	10.2	13.1	9.7	10.0	9.7	13.9	13.5	11.3	13.0	13.5	9.7	9.0	12.8	9.5	10.1	
WA	19.8	20.0	5.5	20.0	14.7	20.0	12.4	20.0	13.9	20.0	11.2	20.0	13.8	10.8	11.7	9.6	5.2	9.4	15.4	8.9	9.9	11.3	15.6	14.8	9.6	17.1	11.1	13.0	
WV	37.0	30.0	25.0	25.0	24.7	24.0	33.5	23.0	20.1	20.0	11.9	20.0	10.1	10.3	13.4	13.5	16.9	14.2	17.9	11.4	14.6	13.4	13.5	14.3	12.3	8.0	10.0	7.8	
WY	46.8	35.0	22.6	30.0	27.8	25.0	22.4	23.0	24.6	22.0	33.7	20.0	20.7	18.5	8.3	7.8	5.5	4.5	7.2	5.7	4.5	4.4	5.4	7.3	6.3	5.9	6.8	7.1	
National Weighted Average ²	40.1	N/A	25.4	N/A	20.5	N/A	20.0	N/A	17.5	N/A	16.3	N/A	14.1	12.8	11.6	10.8	10.5	9.9	10.9	9.3	8.5	9.1	9.6	9.8	11.0	10.9	9.7	9.6	

¹ Rates reported in Federal Fiscal Years (FFY) reflect work completed in the previous FFY. For example, FFY 1997 reported retailer violation rates represent results of inspections conducted in FFY 1996 (October 1, 1995 to September 30, 1996).

² The FFY 1997 rates were the first rates reported by the states (baseline rates) and were used to negotiate future interim target rates.

³ R - Reported

⁴ T - Target

⁵ As of FFY 2003, the target for all states is 20.0 percent.

⁶ The following states have delayed applicability status (i.e., they did not establish their baseline rates until FFY 1999): Arkansas, Kentucky, Montana, Nevada, North Dakota, Oregon, and Texas.

⁷ NR (no rate) means that the State did not report a retailer violation rate for the indicated year.

⁸ National Weighted Average rates are weighted by state population size as reported in U.S. Census data.