

§ 1200.14

100 percent. The Indian Country, as defined by 23 U.S.C. 402(h), is exempt from the provisions of P&A requirements. NHTSA funds shall be used only to finance P&A activities attributable to NHTSA programs. Determinations of P&A shall be in accordance with the provisions of Appendix F.

(2) P&A tasks and related costs shall be described in the P&A module of the State's Highway Safety Plan. The State's matching share shall be determined on the basis of the total P&A costs in the module.

(b) *Automated traffic enforcement systems prohibition.* The State may not expend funds apportioned to the State under 23 U.S.C. 402 to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. The term "automated traffic enforcement system" includes any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement, and does not include hand held radar and other devices operated by law enforcement officers to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.

§ 1200.14 Review and approval procedures.

(a) *General.* Upon receipt and initial review of the Highway Safety Plan, NHTSA may request additional information from a State to ensure compliance with the requirements of this part. Failure to respond promptly to a request for additional information concerning the Section 402 grant application may result in delayed approval and funding of a State's Section 402 grant. Failure to respond promptly to a request for additional information concerning any of the Section 405 grant applications may result in a State's disqualification from consideration for a Section 405 grant.

(b) *Approval and disapproval of Highway Safety Plan.* Within 60 days after receipt of the Highway Safety Plan under this subpart—

(1) For Section 402 grants, the Approving Official shall issue—

(i) A letter of approval with conditions, if any, to the Governor and the

23 CFR Ch. II (4–1–23 Edition)

Governor's Representative for Highway Safety; or

(ii)(A) A letter of disapproval to the Governor and the Governor's Representative for Highway Safety informing the State of the reasons for disapproval and requiring resubmission of the Highway Safety Plan with proposed modifications necessary for approval; and

(B) A letter of approval or disapproval upon resubmission of the Highway Safety Plan within 30 days after NHTSA receives the revised Highway Safety Plan.

(2) For Section 405 grants—

(i) The NHTSA Administrator shall notify States in writing of Section 405 grant awards and specify any conditions or limitations imposed by law on the use of funds; or

(ii) The Approving Official shall notify States in writing if a State's application does not meet the qualification requirements for any of the Section 405 grants.

§ 1200.15 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year, or soon thereafter, the NHTSA Administrator shall, in writing, distribute funds available for obligation under 23 U.S.C. Chapter 4 to the States and specify any conditions or limitations imposed by law on the use of the funds.

(b) In the event that authorizations exist but no applicable appropriation act has been enacted by October 1 of a fiscal year the NHTSA Administrator may, in writing, distribute a part of the funds authorized under 23 U.S.C. Chapter 4 contract authority to the States to ensure program continuity, and in that event shall specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of grant funds, the NHTSA Administrator shall, in writing, promptly adjust the obligation limitation, and specify any conditions or limitations imposed by law on the use of the funds.

(c) Funds distributed under paragraph (a) or (b) of this section shall be available for expenditure by the States to satisfy the Federal share of expenses under the approved Highway Safety

NHTSA and FHWA, DOT

§ 1200.20

Plan, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing document. Such funds shall be available for expenditure by the States as provided in §1200.41(b), after which the funds shall lapse.

(d) Notwithstanding the provisions of paragraph (c) of this section—

(1) Reimbursement of State expenses for Section 402 grant funds shall be contingent upon the submission of an updated HS Form 217 and an updated project list that includes project numbers for each project within 30 days after the beginning of the fiscal year or the date of the written approval provided under §1200.14(b)(1) of this part, whichever is later, and approval of the updated HS Form 217 by the Approving Official.

(2) Reimbursement of State expenses for Section 405 grant funds shall be contingent upon the submission of an updated Highway Safety Plan, HS Form 217, and project list to address the grant funds awarded under subpart C, within 30 days after the beginning of the fiscal year or the date of the grant award notice provided under §1200.14(b)(2), whichever is later, and approval of the updated Highway Safety Plan and HS Form 217 by the Approving Official. Submitting the updated Highway Safety Plan and HS Form 217 is a precondition to reimbursement of grant expenses.

(3) The updated HS Form 217 required under paragraphs (d)(1) and (d)(2) of this section shall reflect the State's allocation of grant funds made available for expenditure during the fiscal year, including carry-forward funds. Within each program area, the State shall provide a project list to be conducted during the fiscal year.

Subpart C—National Priority Safety Program Grants

§ 1200.20 General.

(a) *Scope.* This subpart establishes criteria, in accordance with 23 U.S.C. 405, for awarding grants to States that adopt and implement programs and laws to address national priorities for reducing highway deaths and injuries.

(b) *Definitions.* As used in this subpart—

Blood alcohol concentration or *BAC* means grams of alcohol per deciliter or 100 milliliters blood, or grams of alcohol per 210 liters of breath.

FARS means NHTSA's Fatality Analysis Reporting System.

Majority means greater than 50 percent.

Passenger motor vehicle means a passenger car, pickup truck, van, minivan or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.

Personal wireless communications device means a device through which personal wireless services (commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services) are transmitted, but does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

Primary offense means an offense for which a law enforcement officer may stop a vehicle and issue a citation in the absence of evidence of another offense.

(c) *Eligibility.* Except as provided in §1200.25(c), the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam and the U.S. Virgin Islands are each eligible to apply for national priority safety program grants under this subpart.

(d) *Qualification based on State statutes.* Whenever a State statute is the basis for a grant award under this subpart, such statute shall have been enacted by the application due date and be in effect and enforced, without interruption, by the beginning of and throughout the fiscal year of the grant award.

(e) *Award determinations and transfer of funds.* (1) Except as provided in §1200.26(d), the amount of a grant award to a State in a fiscal year under this subpart shall be determined by applying the apportionment formula under 23 U.S.C. 402(c) for fiscal year 2009 to all qualifying States, in proportion to the amount each such State received under 23 U.S.C. 402(c) for fiscal year 2009, so that all available amounts