

§ 1200.36 Appeals of written decision by Approving Official.

Review of any written decision regarding the administration of the grants by an Approving Official under this subpart may be obtained by submitting a written appeal of such decision, signed by the Governor's Representative for Highway Safety, to the Approving Official. Such appeal shall be forwarded promptly to the NHTSA Associate Administrator, Regional Operations and Program Delivery. The decision of the NHTSA Associate Administrator shall be final and shall be transmitted to the Governor's Representative for Highway Safety through the cognizant Approving Official.

Subpart E—Annual Reconciliation

§ 1200.40 Expiration of the Highway Safety Plan.

(a) The State's Highway Safety Plan for a fiscal year and the State's authority to incur costs under that Highway Safety Plan shall expire on the last day of the fiscal year.

(b) Except as provided in paragraph (c) of this section, each State shall submit a final voucher which satisfies the requirements of § 1200.33 within 90 days after the expiration of the State's Highway Safety Plan as provided in paragraph (a) of this section. The final voucher constitutes the final financial reconciliation for each fiscal year.

(c) The Approving Official may extend the time period to submit a final voucher only in extraordinary circumstances. States shall submit a written request for an extension describing the extraordinary circumstances that necessitate an extension. The approval of any such request for extension shall be in writing, shall specify the new deadline for submitting the final voucher, and shall be signed by the Approving Official.

§ 1200.41 Disposition of unexpended balances.

(a) *Carry-forward balances.* Except as provided in paragraph (b) of this section, grant funds that remain unexpended at the end of a fiscal year and the expiration of a Highway Safety Plan shall be credited to the State's

highway safety account for the new fiscal year, and made immediately available for use by the State, provided the following requirements are met:

(1) The State's new Highway Safety Plan has been approved by the Approving Official pursuant to § 1200.14 of this part;

(2) The State has identified Section 402 carry-forward funds by the program area from which they are removed and identified by program area the manner in which the carry-forward funds will be used under the new Highway Safety Plan.

(3) The State has identified Section 405 carry-forward funds by the national priority safety program under which they were awarded (*i.e.*, occupant protection, state traffic safety information system improvements, impaired driving, ignition interlock, distracted driving, motorcyclist safety or graduated driver licensing). These funds shall not be used for any other program.

(4) The State has submitted for approval an updated HS Form 217 for funds identified in paragraph (a)(2) or (a)(3) of this section. Reimbursement of costs is contingent upon the approval of updated Highway Safety Plan and HS Form 217.

(5) Funds carried forward from grant programs rescinded by MAP-21 shall be separately identified and shall be subject to the statutory and regulatory requirements that were in force at the time of award.

(b) *Deobligation of funds.* (1) Except as provided in paragraph (b)(2) of this section, unexpended grant funds shall not be available for expenditure beyond the period of three years after the last day of the fiscal year of apportionment or allocation.

(2) NHTSA shall notify States of any such unexpended grant funds no later than 180 days prior to the end of the period of availability specified in paragraph (b)(1) of this section and inform States of the deadline for commitment. States may commit such unexpended grant funds to a specific project by the specified deadline, and shall provide documentary evidence of that commitment, including a copy of an executed project agreement, to the Approving Official.

(3) Grant funds committed to a specific project in accordance with paragraph (b)(2) of this section shall remain committed to that project and be expended by the end of the succeeding fiscal year. The final voucher for that project shall be submitted within 90 days of the end of that fiscal year.

(4) NHTSA shall deobligate unexpended balances at the end of the time period in paragraph (b)(1) or (b)(3) of this section, whichever is applicable, and the funds shall lapse.

§ 1200.42 Post-grant adjustments.

The expiration of a Highway Safety Plan does not affect the ability of NHTSA to disallow costs and recover funds on the basis of a later audit or other review or the State's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

§ 1200.43 Continuing requirements.

Notwithstanding the expiration of a Highway Safety Plan, the provisions for post-award requirements in 49 CFR part 18, including but not limited to equipment and audit, continue to apply to the grant funds authorized under 23 U.S.C. Chapter 4.

Subpart F—Non-Compliance

§ 1200.50 General.

Where a State is found to be in non-compliance with the requirements of the grant programs authorized under 23 U.S.C. Chapter 4 or with applicable law, the special conditions for high-risk grantees and the enforcement procedures of 49 CFR part 18, the sanctions procedures in § 1200.51, and any other sanctions or remedies permitted under Federal law may be applied as appropriate.

§ 1200.51 Sanctions—Reduction of apportionment.

(a) *Determination of sanctions.* (1) The Administrator shall not apportion any funds under 23 U.S.C. 402 to any State which is not implementing an approved highway safety program.

(2) If the Administrator has apportioned funds to a State and subsequently determines that the State is not implementing an approved highway

safety program, the Administrator shall reduce the funds apportioned under 23 U.S.C. 402 to the State by amounts equal to not less than 20 percent, until such time as the Administrator determines that the State is implementing an approved highway safety program.

(3) The Administrator shall consider the gravity of the State's failure to implement an approved highway safety program in determining the amount of the reduction.

(4) If the Administrator determines that a State has begun implementing an approved highway safety program not later than July 31 of the fiscal year for which the funds were withheld, the Administrator shall promptly apportion to the State the funds withheld from its apportionment.

(5) If the Administrator determines that the State did not correct its failure by July 31 of the fiscal year for which the funds were withheld, the Administrator shall reapportion the withheld funds to the other States, in accordance with the formula specified in 23 U.S.C. 402(c), not later than the last day of the fiscal year.

(b) *Reconsideration of sanctions determination.* (1) In any fiscal year, if the Administrator determines that a State is not implementing an approved highway safety program in accordance with 23 U.S.C. 402 and other applicable Federal law, the Administrator shall issue to the State an advance notice, advising the State that the Administrator expects to either withhold funds from apportionment under 23 U.S.C. 402, or reduce the State's apportioned funds under 23 U.S.C. 402. The Administrator shall state the amount of the expected withholding or reduction. The advance notice will normally be sent not later than 60 days prior to final apportionment.

(2) If the Administrator issues an advance notice to a State, under paragraph (b)(1) of this section, the State may, within 30 days of its receipt of the advance notice, submit documentation demonstrating that it is implementing an approved highway safety program. Documentation shall be submitted to the NHTSA Administrator, 1200 New Jersey Avenue SE., Washington, DC 20590.