

## SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

### PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY GRANT PROGRAMS

#### Subpart A—General

- Sec.
- 1200.1 Purpose.
- 1200.2 Applicability.
- 1200.3 Definitions.
- 1200.4 State Highway Safety Agency—Authority and functions.
- 1200.5 Due dates—Interpretation.

#### Subpart B—Highway Safety Plan

- 1200.10 General.
- 1200.11 Contents.
- 1200.12 Due date for submission.
- 1200.13 Special funding conditions for Section 402 grants.
- 1200.14 Review and approval procedures.
- 1200.15 Apportionment and obligation of Federal funds.

#### Subpart C—National Priority Safety Program Grants

- 1200.20 General.
- 1200.21 Occupant protection grants.
- 1200.22 State traffic safety information system improvements grants.
- 1200.23 Impaired driving countermeasures grants.
- 1200.24 Distracted driving grants.
- 1200.25 Motorcyclist safety grants.
- 1200.26 State graduated driver licensing grants.

#### Subpart D—Administration of the Highway Safety Grants

- 1200.30 General.
- 1200.31 Equipment.
- 1200.32 Changes—Approval of the Approving Official.
- 1200.33 Vouchers and project agreements.
- 1200.34 Program income.
- 1200.35 Annual report.
- 1200.36 Appeals of written decision by Approving Official.

#### Subpart E—Annual Reconciliation

- 1200.40 Expiration of the Highway Safety Plan.
- 1200.41 Disposition of unexpended balances.
- 1200.42 Post-grant adjustments.
- 1200.43 Continuing requirements.

#### Subpart F—Noncompliance

- 1200.50 General.
- 1200.51 Sanctions—Reduction of apportionment.

#### Subpart G—Special Provisions for Fiscal Year 2013 Highway Safety Grants and Highway Safety Grants Under Prior Authorizations

- 1200.60 Fiscal year 2013 Section 402 grants.
- 1200.61 Fiscal year 2013 Section 405 grants.
- 1200.62 Pre-2013 fiscal year grants.

APPENDIX A TO PART 1200—CERTIFICATION AND ASSURANCES FOR HIGHWAY SAFETY GRANTS (23 U.S.C. CHAPTER 4)

APPENDIX B TO PART 1200—HIGHWAY SAFETY PROGRAM COST SUMMARY (HS-217)

APPENDIX C TO PART 1200—ASSURANCES FOR TEEN TRAFFIC SAFETY PROGRAM

APPENDIX D TO PART 1200—CERTIFICATION AND ASSURANCES FOR NATIONAL PRIORITY SAFETY PROGRAM GRANTS (23 U.S.C. 405)

APPENDIX E TO PART 1200—PARTICIPATION BY POLITICAL SUBDIVISIONS

APPENDIX F TO PART 1200—PLANNING AND ADMINISTRATION (P&A) COSTS

AUTHORITY: 23 U.S.C. 402; 23 U.S.C. 405; delegation of authority at 49 CFR 1.95.

SOURCE: 78 FR 5010, Jan. 23, 2013, unless otherwise noted.

#### Subpart A—General

##### § 1200.1 Purpose.

This part establishes uniform procedures for State highway safety programs authorized under Chapter 4, Title 23, United States Code.

##### § 1200.2 Applicability.

The provisions of this part apply to highway safety programs authorized under 23 U.S.C. 402 beginning fiscal year 2014 and, except as specified in § 1200.24(a), to national priority safety programs authorized under 23 U.S.C. 405 beginning fiscal year 2013.

##### § 1200.3 Definitions.

As used in this part—

*Approving Official* means a Regional Administrator of the National Highway Traffic Safety Administration.

### § 1200.3

### 23 CFR Ch. II (4–1–23 Edition)

*Carry-forward funds* means those funds that a State has not expended on projects in the fiscal year in which they were apportioned or allocated, that are being brought forward and made available for expenditure in a subsequent fiscal year.

*Contract authority* means the statutory language that authorizes an agency to incur an obligation without the need for a prior appropriation or further action from Congress and which, when exercised, creates a binding obligation on the United States for which Congress must make subsequent liquidating appropriations.

*Fiscal year* means the Federal fiscal year, consisting of the 12 months beginning each October 1 and ending the following September 30.

*Governor* means the Governor of any of the fifty States, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Mayor of the District of Columbia, or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), the Secretary of the Interior.

*Governor's Representative for Highway Safety* means the official appointed by the Governor to implement the State's highway safety program or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), an official of the Bureau of Indian Affairs or other Department of Interior official who is duly designated by the Secretary of the Interior to implement the Indian highway safety program.

*Highway Safety Plan (HSP)* means the document, coordinated with the State strategic highway safety plan as defined in 23 U.S.C. 148(a), that the State submits each fiscal year as its application for highway safety grants, which describes the strategies and projects the State plans to implement and the resources from all sources it plans to use to achieve its highway safety performance targets.

*Highway safety program* means the planning, strategies and performance measures, and general oversight and management of highway safety strategies and projects by the State either directly or through sub-recipients to address highway safety problems in the State. A State highway safety program

is defined in the annual Highway Safety Plan and any amendments.

*MAP-21 or "Moving Ahead for Progress in the 21st Century Act"* means Public Law 112-141.

*NHTSA* means the National Highway Traffic Safety Administration.

*Program area* means any of the national priority safety program areas identified in 23 U.S.C. 405 or a program area identified by the State in the highway safety plan as encompassing a major highway safety problem in the State and for which documented effective or projected by analysis to be effective countermeasures have been identified.

*Project* means any undertaking or activity proposed or implemented with grant funds under 23 U.S.C. Chapter 4.

*Project agreement* means a written agreement at the State level or between the State and a subgrantee or contractor under which the State agrees to provide 23 U.S.C. Chapter 4 funds in exchange for the subgrantee's or contractor's performance of one or more undertakings or activities supporting the highway safety program.

*Project number* means a unique identifier assigned by a State to each project in the HSP.

*Public road* means any road under the jurisdiction of and maintained by a public authority and open to public travel.

*Section 402* means section 402 of title 23 of the United States Code.

*Section 405* means section 405 of title 23 of the United States Code.

*State* means, except as provided in §1200.25(b), any of the fifty States of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), the Secretary of the Interior.

*State highway safety improvement program* means the program defined in section 148(a)(11) of title 23 of the United States Code.

*State strategic highway safety plan* means the plan defined in section 148(a)(12) of title 23, United States Code.

**§ 1200.4 State Highway Safety Agency—Authority and functions.**

(a) *Policy.* In order for a State to receive grant funds under this part, the Governor shall exercise responsibility for the highway safety program through a State Highway Safety Agency that has adequate powers and is suitably equipped and organized to carry out the State's highway safety program.

(b) *Authority.* Each State Highway Safety Agency shall be authorized to—

(1) Develop and execute the Highway Safety Plan and highway safety program in the State;

(2) Obtain information about programs to improve highway safety and projects administered by other State and local agencies;

(3) Maintain or have ready access to information contained in State highway safety data systems, including crash, citation, adjudication, emergency medical services/injury surveillance, roadway and vehicle record keeping systems, and driver license data;

(4) Periodically review and comment to the Governor on the effectiveness of programs to improve highway safety in the State from all funding sources that the State plans to use for such purposes;

(5) Provide financial and technical assistance to other State agencies and political subdivisions to develop and carry out highway safety strategies and projects; and

(6) Establish and maintain adequate staffing to effectively plan, manage, and provide oversight of highway safety projects approved in the Highway Safety Plan.

(c) *Functions.* Each State Highway Safety Agency shall—

(1) Develop and prepare the Highway Safety Plan based on evaluation of highway safety data, including crash fatalities and injuries, roadway, driver and other data sources to identify safety problems within the State;

(2) Establish highway safety projects to be funded within the State under 23 U.S.C. Chapter 4 based on identified safety problems and priorities;

(3) Provide direction, information and assistance to sub-grantees concerning highway safety grants, proce-

dures for participation, and development of projects;

(4) Encourage and assist sub-grantees to improve their highway safety planning and administration efforts;

(5) Review and approve, and evaluate the implementation and effectiveness of State and local highway safety programs and projects from all funding sources that the State plans to use under the HSP, and approve and monitor the expenditure of grant funds awarded under 23 U.S.C. Chapter 4;

(6) Assess program performance through analysis of highway safety data and data-driven performance measures;

(7) Ensure that the State highway safety program meets the requirements of 23 U.S.C. Chapter 4 and applicable Federal and State laws, including but not limited to the standards for financial management systems required under 49 CFR 18.20;

(8) Ensure that all legally required audits of the financial operations of the State Highway Safety Agency and of the use of highway safety grant funds are conducted;

(9) Track and maintain current knowledge of changes in State statute or regulation that could affect State qualification for highway safety grants or fund transfer programs; and

(10) Coordinate the Highway Safety Plan and highway safety data collection and information systems activities with other federally and non-federally supported programs relating to or affecting highway safety, including the State strategic highway safety plan as defined in 23 U.S.C. 148(a).

**§ 1200.5 Due dates—Interpretation.**

If any deadline or due date in this part falls on a Saturday, Sunday or Federal holiday, the applicable deadline or due date shall be the next business day.

**Subpart B—Highway Safety Plan**

**§ 1200.10 General.**

Beginning with grants authorized in fiscal year 2014, to apply for any highway safety grant under 23 U.S.C. Chapter 4, a State shall submit a Highway Safety Plan meeting the requirements of this subpart.

**§ 1200.11 Contents.**

Each fiscal year, the State's Highway Safety Plan shall consist of the following components:

(a) *Highway safety planning process.*

(1) A brief description of the data sources and processes used by the State to identify its highway safety problems, describe its highway safety performance measures and define its performance targets, develop and select evidence-based countermeasure strategies and projects to address its problems and achieve its performance targets. In describing these data sources and processes, the State shall identify the participants in the processes (e.g., highway safety committees, program stakeholders, community and constituent groups), discuss the strategies for project selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted (e.g., *Countermeasures That Work*, Sixth Edition, 2011).

(2) A description of the efforts to coordinate and the outcomes from the coordination of the highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in 23 U.S.C. 148(a)).

(b) *Performance plan.* A performance plan containing the following elements:

(1) A list of annual quantifiable and measurable highway safety performance targets that is data-driven, consistent with the Uniform Guidelines for Highway Safety Program and based on highway safety problems identified by the State during the planning process conducted under paragraph (a) of this section.

(2) Performance measures developed by DOT in collaboration with the Governor's Highway Safety Association and others, beginning with the MAP-21 directed "Traffic Safety Performance Measures for States and Federal Agencies" (DOT HS 811 025), which are used as a minimum in developing the performance targets identified in paragraph (b)(1) of this section. Beginning with grants awarded after fiscal year 2014, the performance measures common to the State's HSP and the State highway safety improvement program

(fatalities, fatality rate, and serious injuries) shall be defined identically, as coordinated through the State strategic highway safety plan. At least one performance measure and performance target that is data driven shall be provided for each program area that enables the State to track progress, from a specific baseline, toward meeting the target (e.g., a target to "increase seat belt use from X percent in Year 1 to Y percent in Year 2," using a performance measure of "percent of restrained occupants in front outboard seating positions in passenger motor vehicles"). For each performance measure, the State shall provide:

(i) Documentation of current safety levels;

(ii) Quantifiable annual performance targets; and

(iii) Justification for each performance target that explains why the target is appropriate and data-driven.

(3) Additional performance measures, not included under paragraph (b)(2) of this section. For program areas where performance measures have not been jointly developed, a State shall develop its own performance measures and performance targets that are data-driven (e.g., distracted driving, bicycles). The State shall provide the same information as required under paragraph (b)(2) of this section.

(c) *Highway safety strategies and projects.* A description of—

(1) Each countermeasure strategy and project the State plans to implement to reach the performance targets identified in paragraph (b) of this section. At a minimum, the State shall describe one year of Section 402 and 405 countermeasure strategies and projects (which should include countermeasure strategies identified in the State strategic highway safety plan) and shall identify funds from other sources, including Federal, State, local, and private sector funds, that the State plans to use for such projects or use to achieve program area performance targets.

(2) The State's process for selecting the countermeasure strategies and projects described in paragraph (c)(1) of this section to allow the State to meet the highway safety performance targets described in paragraph (b) of this

## NHTSA and FHWA, DOT

## § 1200.13

section. At a minimum, the State shall provide an assessment of the overall traffic safety impacts of the strategies chosen and proposed or approved projects to be funded.

(3) The data and data analysis or other documentation supporting the effectiveness of proposed countermeasure strategies described in paragraph (c)(1) of this section (e.g., the State may include information on the cost effectiveness of proposed countermeasure strategies, if such information is available).

(4) The evidence-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. At a minimum, the State shall provide for—

(i) An analysis of crashes, crash fatalities, and injuries in areas of highest risk;

(ii) Deployment of resources based on that analysis; and

(iii) Continuous follow-up and adjustment of the enforcement plan.

(5) The planned high visibility enforcement strategies to support national mobilizations.

(d) *Performance report.* A program-area-level report on the State's success in meeting State performance targets from the previous fiscal year's Highway Safety Plan.

(e) *Program cost summary and list of projects.* (1) HS Form 217, meeting the requirements of Appendix B, completed to reflect the State's proposed allocations of funds (including carry-forward funds) by program area. The funding level used shall be an estimate of available funding for the upcoming fiscal year based on amounts authorized for the fiscal year and projected carry-forward funds.

(2) For each program area, an accompanying list of projects that the State proposes to conduct for that fiscal year and an estimated amount of Federal funds for each such project.

(f) *Certifications and assurances.* Appendix A—Certifications and Assurances for Section 402 Grants, signed by the Governor's Representative for Highway Safety, certifying the HSP application contents and providing assurances that the State will comply with applicable laws and regulations, financial and programmatic require-

ments, and, in accordance with § 1200.13 of this part, the special funding conditions for the Section 402 program.

(g) *Teen Traffic Safety Program.* If the State elects to include the Teen Traffic Safety Program authorized under 23 U.S.C. 402(m), a description of projects that the State will conduct as part of the Teen Traffic Safety Program—a statewide program to improve traffic safety for teen drivers—and the assurances in Appendix C, signed by the Governor's Representative for Highway Safety.

(h) *Section 405 grant application.* Application for any of the national priority safety program grants, in accordance with the requirements of subpart C, including Appendix D—Certifications and Assurances for Section 405 Grants, signed by the Governor's Representative for Highway Safety.

### § 1200.12 Due date for submission.

(a) Except as specified under § 1200.61(a), a State shall submit its Highway Safety Plan electronically to the NHTSA regional office no later than July 1 preceding the fiscal year to which the Highway Safety Plan applies.

(b) Failure to meet this deadline may result in delayed approval and funding of a State's Section 402 grant or disqualification from receiving Section 405 grants.

### § 1200.13 Special funding conditions for Section 402 grants.

The State's highway safety program under Section 402 shall be subject to the following conditions, and approval under § 1200.14 of this part shall be deemed to incorporate these conditions:

(a) *Planning and administration costs.*

(1) Federal participation in P&A activities shall not exceed 50 percent of the total cost of such activities, or the applicable sliding scale rate in accordance with 23 U.S.C. 120. The Federal contribution for P&A activities shall not exceed 13 percent of the total funds the State receives under 23 U.S.C. 402. In accordance with 23 U.S.C. 120(i), the Federal share payable for projects in the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be

## § 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

## § 1200.21

## 23 CFR Ch. II (4–1–23 Edition)

are distributed to qualifying States to the maximum extent practicable.

(2) Notwithstanding paragraph (e)(1) of this section, and except as provided in §1200.25(k), a grant awarded to a State in a fiscal year under this subpart may not exceed 10 percent of the total amount made available for that section for that fiscal year.

(3) If it is determined after review of applications that funds for a grant program under this subpart will not all be distributed, such funds shall be transferred to other programs authorized under 23 U.S.C. 402 and 405 to ensure, to the maximum extent practicable, that each State receives the maximum funding for which it qualifies.

(f) *Matching.* The Federal share of the costs of activities or programs funded using amounts from grants awarded under this subpart may not exceed 80 percent.

### § 1200.21 Occupant protection grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(b), for awarding grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or not properly restrained in motor vehicles.

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

*Child restraint* means any device (including a child safety seat, booster seat used in conjunction with 3-point belts, or harness, but excluding seat belts) that is designed for use in a motor vehicle to restrain, seat, or position a child who weighs 65 pounds (30 kilograms) or less and that meets the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

*High seat belt use rate State* means a State that has an observed seat belt use rate of 90.0 percent or higher (not rounded) based on validated data from the State survey of seat belt use conducted during the previous calendar year, in accordance with the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340 (e.g., for a grant application submitted

on July 1, 2014, the “previous calendar year” would be 2013).

*Lower seat belt use rate State* means a State that has an observed seat belt use rate below 90.0 percent (not rounded) based on validated data from the State survey of seat belt use conducted during the previous calendar year, in accordance with the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340 (e.g., for a grant application submitted on July 1, 2014, the “previous calendar year” would be 2013).

*Seat belt* means, with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt, and with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

*Problem identification* means the data collection and analysis process for identifying areas of the State, types of crashes, or types of populations (e.g., high-risk populations) that present specific safety or usage challenges in efforts to improve occupant protection.

(c) *Eligibility determination.* A State is eligible to apply for a grant under this section as a high seat belt use rate State or as a lower seat belt use rate State, in accordance with paragraph (d) or (e) of this section, as applicable.

(d) *Qualification criteria for a high seat belt use rate State.* To qualify for an occupant protection grant in a fiscal year, a high seat belt use rate State (as determined by NHTSA) shall submit an executed Part 1 of Appendix D and the following documentation:

(1) *Occupant protection plan.* (i) For a first fiscal year award, a copy of the State occupant protection program area plan to be included in the State HSP that describes the programs the State will implement to achieve reductions in traffic crashes, fatalities, and injuries on public roads.

(ii) For subsequent fiscal year awards, an update of the State’s occupant protection plan provided in paragraph (d)(1)(i) of this section.

(2) *Participation in Click-it-or-Ticket national mobilization.* A description of the State’s planned participation, and

the assurance provided in Part 1 of Appendix D, signed by the Governor's Highway Safety Representative, that the State will participate in the Click it or Ticket national mobilization during the fiscal year of the grant;

(3) *Child restraint inspection stations.* Documentation that the State has an active network of child inspection stations and/or inspection events that are—

(i) Located in areas that service the majority of the State's population and show evidence of outreach to underserved areas; and

(ii) Staffed with at least one current nationally Certified Child Passenger Safety Technician during official posted hours.

(4) *Child passenger safety technicians.* A copy of the State's plan to recruit, train and retain nationally Certified Child Passenger Safety Technicians to staff each child inspection station and inspection events located in the State.

(5) *Maintenance of effort.* The assurance provided in Part 1 of Appendix D, signed by the Governor's Highway Safety Representative, that the State shall maintain its aggregate expenditures from all State and local sources for occupant protection programs at or above the average level of such expenditure in fiscal years 2010 and 2011.

(e) *Qualification criteria for a lower seat belt use rate State.* To qualify for an occupant protection grant in a fiscal year, a lower seat belt use rate State (as determined by NHTSA) shall satisfy all the requirements of and submit all the documentation required under paragraph (d) of this section, and submit documentation demonstrating that it meets at least three of the following additional criteria:

(1) *Primary enforcement seat belt use law.* The assurance provided in Part 1 of Appendix D, signed by the Governor's Highway Safety Representative, providing legal citations to the State statute or statutes demonstrating that the State has enacted and is enforcing occupant protection laws that make a violation of the requirement to be secured in a seat belt or child restraint a primary offense.

(2) *Occupant protection laws.* The assurance provided in Part 1 of Appendix D, signed by the Governor's Highway

Safety Representative, providing legal citations to State statute or statutes demonstrating that the State has enacted and is enforcing occupant protection laws that require—

(i) Each occupant riding in a passenger motor vehicle who is under eight years of age, weighs less than 65 pounds and is less than four feet, nine inches in height to be secured in an age-appropriate child restraint;

(ii) Each occupant riding in a passenger motor vehicle other than an occupant identified in paragraph (e)(2)(i) of this section to be secured in a seat belt or appropriate child restraint;

(iii) A minimum fine of \$25 per unrestrained occupant for a violation of the occupant protection laws described in paragraphs (e)(2)(i) and (ii) of this section.

(iv) No exemption from coverage, except the following:

(A) Drivers, but not passengers, of postal, utility, and commercial vehicles that make frequent stops in the course of their business;

(B) Persons who are unable to wear a seat belt or child restraint because of a medical condition, provided there is written documentation from a physician;

(C) Persons who are unable to wear a seat belt or child restraint because all other seating positions are occupied by persons properly restrained in seat belts or child restraints;

(D) Emergency vehicle operators and passengers in emergency vehicles during an emergency;

(E) Persons riding in seating positions or vehicles not required by Federal Motor Vehicle Safety Standards to be equipped with seat belts;

(F) Passengers in public and livery conveyances.

(3) *Seat belt enforcement.* Documentation of the State's plan to conduct ongoing and periodic seat belt and child restraint enforcement during the fiscal year of the grant involving—

(i) At least 70 percent of the State's population as shown by the latest available Federal census; or

(ii) Law enforcement agencies responsible for seat belt enforcement in geographic areas in which at least 70

**§ 1200.21**

**23 CFR Ch. II (4–1–23 Edition)**

percent of the State's unrestrained passenger vehicle occupant fatalities occurred (reported in the HSP).

(4) *High risk population countermeasure programs.* Documentation that the State has implemented data-driven programs to improve seat belt and child restraint use for at least two of the following at-risk populations:

- (i) Drivers on rural roadways;
- (ii) Unrestrained nighttime drivers;
- (iii) Teenage drivers;
- (iv) Other high-risk populations identified in the occupant protection plan required under paragraph (d)(1) of this section.

(5) *Comprehensive occupant protection program.* Documentation demonstrating that the State has—

- (i) Conducted a NHTSA-facilitated program assessment that evaluates the program for elements designed to increase seat belt usage in the State;
- (ii) Developed a multi-year strategic plan based on input from statewide stakeholders (task force) under which the State developed—

(A) *A program management* strategy that provides leadership, training and technical assistance to other State agencies and local occupant protection programs and projects;

(B) *A program evaluation* strategy that assesses performance in achieving the State's measurable goals and objectives for increasing seat belt and child restraint usage for adults and children;

(C) *A communication and education program* strategy that has as its cornerstone the high visibility enforcement model that combines use of media, both paid and earned, and education to support enforcement efforts at the State and community level aimed at increasing seat belt use and correct usage of age appropriate child restraint systems; and

(D) *An enforcement* strategy that includes activities such as encouraging seat belt use policies for law enforcement agencies, vigorous enforcement of seat belt and child safety seat laws, and accurate reporting of occupant protection system information on police accident report forms.

(iii) designated an occupant protection coordinator; and

(iv) established a statewide occupant protection task force that includes

agencies and organizations that can help develop, implement, enforce and evaluate occupant protection programs.

(6) *Occupant protection program assessment.* (i) A NHTSA-facilitated assessment of all elements of its occupant protection program within the three years prior to October 1 of the grant year; or

(ii) For the first year of the grant, the assurance provided in Part 1 of Appendix D, signed by the Governor's Representative for Highway Safety, that the State will conduct a NHTSA-facilitated assessment by September 1 of the grant year. The agency will require the return of grant funds awarded under this section if the State fails to conduct such an assessment by the deadline and will redistribute any such grant funds in accordance with § 1200.20(e) to other qualifying States under this section.

(f) *Use of grant funds—(1) Eligible uses.* Except as provided in paragraph (f)(2) of this section, use of grant funds awarded under this section shall be limited to the following programs or purposes:

(i) To support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

(ii) To train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

(iii) To educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

(iv) To provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

(v) To establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

(vi) To purchase and distribute child restraints to low-income families, provided that not more than five percent

of the funds received in a fiscal year are used for such purpose.

(2) *Eligible uses for high seat belt use rate States.* Notwithstanding paragraph (f)(1) of this section, a State that qualifies for grant funds as a high seat belt use rate State may use up to 75 percent of such funds for any project or activity eligible for funding under 23 U.S.C. 402.

**§ 1200.22 State traffic safety information system improvements grants.**

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(c), for grants to States to develop and implement effective programs that improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of State safety data needed to identify priorities for Federal, State, and local highway and traffic safety programs, evaluate the effectiveness of such efforts, link State data systems, including traffic records and systems that contain medical, roadway, and economic data, improve the compatibility and interoperability of State data systems with national data systems and the data systems of other States, and enhance the agency's ability to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(b) *Requirement for traffic records coordinating committee (TRCC)*—(1) *Structure and composition.* The State shall have a traffic records coordinating committee that—

- (i) Is chartered or legally mandated;
- (ii) Meets at least three times annually;
- (iii) Has a multidisciplinary membership that includes owners, operators, collectors and users of traffic records and public health and injury control data systems, highway safety, highway infrastructure, law enforcement and adjudication officials, and public health, emergency medical services, injury control, driver licensing, and motor carrier agencies and organizations; and
- (iv) Has a designated TRCC coordinator.

(2) *Functions.* The traffic records coordinating committee shall—

- (i) Have authority to review any of the State's highway safety data and

traffic records systems and any changes to such systems before the changes are implemented;

(ii) Consider and coordinate the views of organizations in the State that are involved in the collection, administration, and use of highway safety data and traffic records systems, and represent those views to outside organizations;

(iii) Review and evaluate new technologies to keep the highway safety data and traffic records system current; and

(iv) Approve annually the membership of the TRCC, the TRCC coordinator, any change to the State's multi-year Strategic Plan required under paragraph (c) of this section, and performance measures to be used to demonstrate quantitative progress in the accuracy, completeness, timeliness, uniformity, accessibility or integration of a core highway safety database.

(c) *Requirement for a state traffic records strategic plan.* The State shall have a Strategic Plan, approved by the TRCC, that—

(1) Describes specific, quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

(2) For any identified performance measure, uses the formats set forth in the Model Performance Measures for State Traffic Records Systems collaboratively developed by NHTSA and the Governors Highway Safety Association (GHSA);

(3) Includes a list of all recommendations from its most recent highway safety data and traffic records system assessment;

(4) Identifies which such recommendations the State intends to implement and the performance measures to be used to demonstrate quantifiable and measurable progress; and

(5) For recommendations that the State does not intend to implement, provides an explanation.

(d) *Requirement for quantitative improvement.* A State shall demonstrate quantitative improvement in the data attributes of accuracy, completeness, timeliness, uniformity, accessibility

## § 1200.23

and integration in a core database by demonstrating an improved consistency within the State's record system or by achieving a higher level of compliance with a national model inventory of data elements, such as the Model Minimum Uniform Crash Criteria (MMUCC), the Model Impaired Driving Records Information System (MIDRIS), the Model Inventory of Roadway Elements (MIRE) or the National Emergency Medical Services Information System (NEMSIS).

(e) *Requirement for assessment.* The State shall have conducted or updated, within the five years prior to the application due date, an in-depth, formal assessment of its highway safety data and traffic records system accurately performed by a group knowledgeable about highway safety data and traffic records systems that complies with the procedures and methodologies outlined in NHTSA's Traffic Records Highway Safety Program Advisory (DOT HS 811 644).

(f) *Requirement for maintenance of effort.* The State shall maintain its aggregate expenditures from all State and local sources for State traffic safety information system programs at or above the average level of such expenditure in fiscal years 2010 and 2011, as provided in Part 2 of Appendix D, signed by the Governor's Highway Safety Representative.

(g) *Qualification criteria.* To qualify for a grant under this section in a fiscal year, a State shall submit an executed Part 2 of Appendix D and the following documentation:

(1) Either the TRCC charter or legal citation(s) to the statute or regulation legally mandating a TRCC with the functions required by paragraph (b)(2) of this section;

(2) Meeting schedule, all reports and data system improvement and policy guidance documents promulgated by the TRCC during the 12 months immediately preceding the grant application due date;

(3) A list of the TRCC membership and the organizations and functions they represent;

(4) The name and title of the State's Traffic Records Coordinator.

(5) A copy of the Strategic Plan required under paragraph (c) of this sec-

## 23 CFR Ch. II (4-1-23 Edition)

tion, including any updates to the Strategic Plan.

(6) Either a written description of the performance measures, and all supporting data, that the State is relying on to demonstrate quantitative improvement in the preceding 12 months of the grant application due date in one or more of the significant data program attributes or the location where this information is detailed in the Strategic Plan.

(7) The certification provided in Part 2 of Appendix D, signed by the Governor's Representative for Highway Safety, that an assessment of the State's highway safety data and traffic records system was conducted or updated within the five years prior to the application due date as provided in paragraph (e) of this section.

(h) *Use of grant funds.* Grant funds awarded under this section shall be used to make quantifiable, measureable progress improvements in the accuracy, completeness, timeliness, uniformity, accessibility or integration of data in a core highway safety database.

### § 1200.23 Impaired driving counter-measures grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(d), for awarding grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol, drugs, or the combination of alcohol and drugs or that enact alcohol ignition interlock laws.

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

*24-7 sobriety program* means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to require an individual who pleads guilty to or was convicted of driving under the influence of alcohol or drugs to—

(1) Abstain totally from alcohol or drugs for a period of time; and

(2) Be subject to testing for alcohol or drugs at least twice per day by continuous transdermal alcohol monitoring via an electronic monitoring device, or by an alternative method approved by NHTSA.

*Alcohol* means wine, beer and distilled spirits.

*Average impaired driving fatality rate* means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported three calendar years of final data from the FARS.

*Assessment* means a NHTSA-facilitated process that employs a team of subject matter experts to conduct a comprehensive review of a specific highway safety program in a State.

*Driving under the influence of alcohol, drugs, or a combination of alcohol and drugs* means operating a vehicle while the alcohol and/or drug concentration in the blood or breath, as determined by chemical or other tests, equals or exceeds the level established by the State or is equivalent to the standard offense for driving under the influence of alcohol or drugs in the State.

*Driving While Intoxicated (DWI) Court* means a court that specializes in cases involving driving while intoxicated and abides by the Ten Guiding Principles of DWI Courts in effect on the date of the grant, as established by the National Center for DWI Courts.

*Drugs* means controlled substances as that term is defined under section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6).

*High visibility enforcement efforts* means participation in national impaired driving law enforcement campaigns organized by NHTSA, participation in impaired driving law enforcement campaigns organized by the State, or the use of sobriety checkpoints and/or saturation patrols, conducted in a highly visible manner and supported by publicity through paid or earned media.

*High-range State* means a State that has an average impaired driving fatality rate of 0.60 or higher.

*Low-range State* means a State that has an average impaired driving fatality rate of 0.30 or lower.

*Mid-range State* means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

*Saturation patrol* means a law enforcement activity during which enhanced levels of law enforcement are conducted in a concentrated geographic area (or areas) for the purpose of detecting drivers operating motor vehicles while impaired by alcohol and/or other drugs.

*Sobriety checkpoint* means a law enforcement activity during which law enforcement officials stop motor vehicles on a non-discriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while impaired by alcohol and/or other drugs.

*Standard offense for driving under the influence of alcohol or drugs* means the offense described in a State's law that makes it a criminal offense to operate a motor vehicle while under the influence of alcohol or drugs, but does not require a measurement of alcohol or drug content.

(c) *Eligibility determination.* A State is eligible to apply for a grant under this section as a low-range State, a mid-range State or a high-range State, in accordance with paragraphs (d), (e) or (f) of this section, as applicable. Independent of this range determination, a State may also qualify for a separate grant under this section as an ignition interlock State, as provided in paragraph (g) of this section.

(d) *Qualification criteria for a low-range State.* To qualify for an impaired driving countermeasures grant in a fiscal year, a low-range State (as determined by NHTSA) shall submit an executed Part 3 of Appendix D providing assurances, signed by the Governor's Representative for Highway Safety, that the State will—

(1) Use the funds awarded under 23 U.S.C. 405(d)(1) only for the implementation and enforcement of programs authorized in paragraph (i) of this section; and

(2) Maintain its aggregate expenditures from all State and local sources for impaired driving programs at or

## § 1200.23

above the average level of such expenditure in fiscal years 2010 and 2011, as provided in Part 3 of Appendix D.

(e) *Qualification criteria for a mid-range State.* To qualify for an impaired driving countermeasures grant in a fiscal year, a mid-range State (as determined by NHTSA) shall submit the information required in paragraph (d) of this section and the following additional documentation:

(1) *Statewide impaired driving plan.* If the State has not received a grant under this section for a previously submitted statewide impaired driving plan, the State shall submit a copy of a statewide impaired driving plan that—

(i) Has been developed within the three years prior to the application due date;

(ii) Has been approved by a statewide impaired driving task force that meets the requirements of paragraph (e)(2) of this section;

(iii) Provides a comprehensive strategy that uses data and problem identification to identify measurable goals and objectives for preventing and reducing impaired driving behavior and impaired driving crashes; and

(iv) Covers general areas that include program management and strategic planning, prevention, the criminal justice system, communication programs, alcohol and other drug misuse, and program evaluation and data.

(2) *Statewide impaired driving task force.* The State shall submit a copy of information describing its statewide impaired driving task force that—

(i) Provides the basis for the operation of the task force, including any charter or establishing documents;

(ii) Includes a schedule of all meetings held in the 12 months preceding the application due date and any reports or documents produced during that time period; and

(iii) Includes a list of membership and the organizations and functions represented and includes, at a minimum, key stakeholders from the State Highway Safety Office and the areas of law enforcement and criminal justice system (e.g., prosecution, adjudication, probation), and, as appropriate, stakeholders from the areas of driver licensing, treatment and rehabilitation, igni-

## 23 CFR Ch. II (4–1–23 Edition)

tion interlock programs, data and traffic records, public health, and communication.

(3) *Assurances.* For the first year of the grant as a mid-range State, if the State is not able to meet the requirements of paragraph (e)(1) of this section, the State may provide the assurances provided in Part 3 of Appendix D, signed by the Governor's Representative for Highway Safety, that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan that meets the requirements of paragraph (e)(1) of this section and submit the statewide impaired driving plan by September 1 of the grant year. The agency will require the return of grant funds awarded under this section if the State fails to submit the plan by the deadline and will redistribute any such grant funds in accordance with § 1200.20(e) to other qualifying States under this section.

(f) *Qualification criteria for a high-range State.* To qualify for an impaired driving countermeasures grant in a fiscal year, a high-range State (as determined by NHTSA) shall submit the information required in paragraph (d) of this section and the following additional documentation:

(1) *Impaired driving program assessment.* (i) The assurances provided in Part 3 of Appendix D, signed by the Governor's Representative for Highway Safety, providing the date of the NHTSA-facilitated assessment of the State's impaired driving program conducted within the three years prior to the application due date; or

(ii) For the first year of the grant as a high-range State, the assurances provided in Part 3 of Appendix D, signed by the Governor's Representative for Highway Safety, that the State will conduct a NHTSA-facilitated assessment by September 1 of the grant year.

(2) *Statewide impaired driving plan.* (i) *First year compliance.* For the first year of the grant as a high-range State, the assurances provided in Part 3 of Appendix D, signed by the Governor's Representative for Highway Safety, that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan, which will be submitted to NHTSA for review

and approval by September 1 of the grant year that—

(A) Meets the requirements of paragraph (e)(1) of this section;

(B) Addresses any recommendations from the assessment of the State's impaired driving program required in paragraph (f)(1) of this section;

(C) Includes a detailed plan for spending any grant funds provided for high visibility enforcement efforts; and

(D) Describes how the spending supports the State's impaired driving program and achievement of its performance goals and targets;

(ii) *Subsequent year compliance.* For subsequent years of the grant as a high-range State, the State shall submit for NHTSA review and comment a statewide impaired driving plan that meets the requirements of paragraph (f)(2)(i)(A) through (D) of this section or an update to its statewide impaired driving plan, as part of its application for a grant.

(g) *Ignition interlock State.* To qualify for a separate grant as an ignition interlock State in a fiscal year, a State shall submit the assurances in Part 3 of Appendix D, signed by the Governor's Representative for Highway Safety, providing legal citation(s) to the State statute demonstrating that the State has enacted and is enforcing a law that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to drive only vehicles with alcohol ignition interlocks for a period of not less than 30 days.

(h) *Award.* (1) The amount available for grants under paragraphs (d), (e) and (f) of this section shall be determined based on the total amount of eligible States for these grants and after deduction of the amount necessary to fund grants under paragraph (g) of this section.

(2) The amount available for grants under paragraph (g) of this section shall not exceed 15 percent of the total amount made available to States under this section for the fiscal year.

(i) *Use of grant funds.* (1) *Low-range States* may use grant funds awarded under this section for the following authorized programs:

(i) High visibility enforcement efforts;

(ii) Hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

(iii) Court support of high visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

(iv) Alcohol ignition interlock programs;

(v) Improving blood-alcohol concentration testing and reporting;

(vi) Paid and earned media in support of high visibility enforcement of impaired driving laws, and conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement;

(vii) Training on the use of alcohol screening and brief intervention;

(viii) Developing impaired driving information systems; and

(ix) Costs associated with a 24-7 sobriety program.

(x) Programs designed to reduce impaired driving based on problem identification.

(2) *Mid-range States* may use grant funds awarded under this section for any of the authorized uses described in paragraph (i)(1) of this section, provided that use of grant funds for programs described in paragraph (i)(1)(x) of this section requires advance approval from NHTSA.

(3) *High-range States* may use grant funds awarded under this section for high visibility enforcement efforts and any of the authorized uses described in paragraph (i)(1) of this section, provided the proposed uses are described in a statewide impaired driving plan submitted to and approved by NHTSA in accordance with paragraph (f)(2) of this section and subject to the conditions in paragraph (j) of this section.

## § 1200.24

(4) *Ignition interlock States* may use grant funds awarded under this section for any of the authorized uses described under paragraph (i)(1) of this section and for eligible activities under 23 U.S.C. 402.

(j) *Special conditions for use of funds by high-range States.* No expenses incurred or vouchers submitted by a high-range State shall be approved for reimbursement until such State submits for NHTSA review and approval a statewide impaired driving plan as provided in paragraph (f)(2) of this section. If a high-range State fails to timely provide the statewide impaired driving plan required under paragraph (f)(2) of this section, the agency will redistribute any grant funds in accordance with §1200.20(e) to other qualifying States under this section.

### § 1200.24 Distracted driving grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(e), for awarding grants to States that enact and enforce laws prohibiting distracted driving, beginning with fiscal year 2014 grants.

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

*Driving* means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise, but does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

*Texting* means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

(c) *Qualification criteria.* To qualify for a distracted driving grant in a fiscal year, a State shall submit the assurances in Part 4 of Appendix D, signed by the Governor's Representative for Highway Safety, providing legal citations to the State statute or statutes demonstrating compliance with the following requirements:

## 23 CFR Ch. II (4–1–23 Edition)

(1) *Prohibition on texting while driving.* The statute shall—

(i) Prohibit drivers from texting through a personal wireless communications device while driving;

(ii) Make a violation of the law a primary offense; and

(iii) Establish—

(A) A minimum fine of \$25 for a first violation of the law; and

(B) Increased fines for repeat violations within five years of the previous violation.

(2) *Prohibition on youth cell phone use while driving.* The statute shall—

(i) Prohibit a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

(ii) Make a violation of the law a primary offense;

(iii) Require distracted driving issues to be tested as part of the State's driver's license examination; and

(iv) Establish—

(A) A minimum fine of \$25 for a first violation of the law; and

(B) Increased fines for repeat violations within five years of the previous violation.

(3) *Permitted exceptions.* A State statute providing for the following exceptions, and no others, shall not be deemed out of compliance with the requirements of this section:

(i) A driver who uses a personal wireless communications device to contact emergency services;

(ii) Emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel; and

(iii) An individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to 49 U.S.C. 31136.

(d) *Use of grant funds.* (1) At least 50 percent of the grant funds awarded under this section shall be used to educate the public through advertising containing information about the dangers of texting or using a cell phone

while driving, for traffic signs that notify drivers about the distracted driving law of the State, or for law enforcement costs related to the enforcement of the distracted driving law;

(2) Not more than 50 percent of the grant funds awarded under this section may be used for any eligible project or activity under 23 U.S.C. 402.

#### § 1200.25 Motorcyclist safety grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(b), for awarding grants to States that adopt and implement effective programs to reduce the number of single-vehicle and multiple-vehicle crashes involving motorcyclists.

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

*Impaired* means alcohol-impaired or drug-impaired as defined by State law, provided that the State's legal alcohol-impairment level does not exceed .08 BAC.

*Motorcycle* means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

*Motorcyclist awareness* means individual or collective awareness of the presence of motorcycles on or near roadways and of safe driving practices that avoid injury to motorcyclists.

*Motorcyclist awareness program* means an informational or public awareness or education program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

*Motorcyclist safety training* or *Motorcycle rider training* means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.

*State* means any of the 50 States, the District of Columbia, and Puerto Rico.

(c) *Eligibility.* The 50 States, the District of Columbia and Puerto Rico are eligible to apply for a motorcyclist safety grant.

(d) *Qualification criteria.* To qualify for a motorcyclist safety grant in a fiscal year, a State shall submit an executed Part 5 of Appendix D, signed by the Governor's Representative for Highway Safety, and submit documentation demonstrating compliance with at least two of the criteria in paragraphs (e) through (j) of this section.

(e) *Motorcycle rider training course.* (1) To satisfy this criterion, a State shall have an effective motorcycle rider training course that is offered throughout the State and that provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists. The program shall—

(i) Use a training curriculum that—

(A) Is approved by the designated State authority having jurisdiction over motorcyclist safety issues;

(B) Includes a formal program of instruction in crash avoidance and other safety-oriented operational skills for both in-class and on-the-motorcycle training to motorcyclists; and

(C) May include innovative training opportunities to meet unique regional needs;

(ii) Offer at least one motorcycle rider training course either—

(A) In a majority of the State's counties or political subdivisions; or

(B) In counties or political subdivisions that account for a majority of the State's registered motorcycles;

(iii) Use motorcycle rider training instructors to teach the curriculum who are certified by the designated State authority having jurisdiction over motorcyclist safety issues or by a nationally recognized motorcycle safety organization with certification capability; and

(iv) Use quality control procedures to assess motorcycle rider training courses and instructor training courses conducted in the State.

(2) To demonstrate compliance with this criterion, the State shall submit—

(i) A copy of the official State document (e.g., law, regulation, binding policy directive, letter from the Governor)

§ 1200.25

23 CFR Ch. II (4–1–23 Edition)

identifying the designated State authority over motorcyclist safety issues;

(ii) Document(s) demonstrating that the training curriculum is approved by the designated State authority having jurisdiction over motorcyclist safety issues and includes a formal program of instruction in crash avoidance and other safety-oriented operational skills for both in-class and on-the-motorcycle training to motorcyclists;

(iii) Either:

(A) A list of the counties or political subdivisions in the State, noting in which counties or political subdivisions and when motorcycle rider training courses were offered in the 12 months preceding the due date of the grant application, if the State seeks to qualify under this criterion by showing that it offers at least one motorcycle rider training course in a majority of counties or political subdivisions in the State; or

(B) A list of the counties or political subdivisions in the State, noting in which counties or political subdivisions and when motorcycle rider training courses were offered in the 12 months preceding the due date of the grant application and the corresponding number of registered motorcycles in each county or political subdivision according to official State motor vehicle records, if the State seeks to qualify under this criterion by showing that it offers at least one motorcycle rider training course in counties or political subdivisions that account for a majority of the State's registered motorcycles;

(iv) Document(s) demonstrating that the State uses motorcycle rider training instructors to teach the curriculum who are certified by the designated State authority having jurisdiction over motorcyclist safety issues or by a nationally recognized motorcycle safety organization with certification capability; and

(v) A brief description of the quality control procedures to assess motorcycle rider training courses and instructor training courses used in the State (e.g., conducting site visits, gathering student feedback) and the actions taken to improve the courses based on the information collected.

(f) *Motorcyclist awareness program.* (1) To satisfy this criterion, a State shall have an effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists. The program shall—

(i) Be developed by, or in coordination with, the designated State authority having jurisdiction over motorcyclist safety issues;

(ii) Use State data to identify and prioritize the State's motorcyclist awareness problem areas;

(iii) Encourage collaboration among agencies and organizations responsible for, or impacted by, motorcycle safety issues; and

(iv) Incorporate a strategic communications plan that—

(A) Supports the State's overall safety policy and countermeasure program;

(B) Is designed, at a minimum, to educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest or in those jurisdictions that account for a majority of the State's registered motorcycles;

(C) Includes marketing and educational efforts to enhance motorcyclist awareness; and

(D) Uses a mix of communication mechanisms to draw attention to the problem.

(2) To demonstrate compliance with this criterion, the State shall submit—

(i) A copy of the State document identifying the designated State authority having jurisdiction over motorcyclist safety issues;

(ii) A letter from the Governor's Highway Safety Representative stating that the State's motorcyclist awareness program was developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues;

(iii) Data used to identify and prioritize the State's motorcycle safety problem areas, including either—

(A) A list of counties or political subdivisions in the State ranked in order of the highest to lowest number of motorcycle crashes per county or political subdivision, if the State seeks to qualify under this criterion by showing that it identifies and prioritizes the State's motorcycle safety problem

areas based on motorcycle crashes. Such data shall be from the most recent calendar year for which final State crash data is available, but data no older than two calendar years prior to the application due date (e.g., for a grant application submitted on July 1, 2013, a State shall provide calendar year 2012 data, if available, and may not provide data older than calendar year 2011); or

(B) A list of counties or political subdivisions in the State and the corresponding number of registered motorcycles for each county or political subdivision according to official State motor vehicle records, if the State seeks to qualify under this criterion by showing that it identifies and prioritizes the State's motorcycle safety problem areas based on motorcycle registrations;

(iv) A brief description of how the State has achieved collaboration among agencies and organizations responsible for, or impacted by, motorcycle safety issues; and

(v) A copy of the strategic communications plan showing that it—

(A) Supports the State's overall safety policy and countermeasure program;

(B) Is designed to educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest (i.e., the majority of counties or political subdivisions in the State with the highest numbers of motorcycle crashes) or is designed to educate motorists in those jurisdictions that account for a majority of the State's registered motorcycles (i.e., the counties or political subdivisions that account for a majority of the State's registered motorcycles as evidenced by State motor vehicle records);

(C) Includes marketing and educational efforts to enhance motorcyclist awareness; and

(D) Uses a mix of communication mechanisms to draw attention to the problem (e.g., newspapers, billboard advertisements, email, posters, flyers, mini-planners, or instructor-led training sessions).

(g) *Reduction of fatalities and crashes involving motorcycles.* (1) To satisfy this criterion, a State shall demonstrate a reduction for the preceding calendar year in the number of motorcyclist fa-

talities and in the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 registered motorcycle registrations), as computed by NHTSA. The State shall—

(i) Experience a reduction of at least one in the number of motorcyclist fatalities for the most recent calendar year for which final FARS data is available as compared to the final FARS data for the calendar year immediately prior to that year; and

(ii) Based on State crash data expressed as a function of 10,000 motorcycle registrations (using FHWA motorcycle registration data), experience at least a whole number reduction in the rate of crashes involving motorcycles for the most recent calendar year for which final State crash data is available, but data no older than two calendar years prior to the application due date, as compared to the calendar year immediately prior to that year.

(2) To demonstrate compliance with this criterion, the State shall submit—

(i) State data showing the total number of motor vehicle crashes involving motorcycles in the State for the most recent calendar year for which final State crash data is available, but data no older than two calendar years prior to the application due date and the same type of data for the calendar year immediately prior to that year (e.g., for a grant application submitted on July 1, 2013, the State shall submit calendar year 2012 data and 2011 data, if both data are available, and may not provide data older than calendar year 2011 and 2010, to determine the rate); and

(ii) A description of the State's methods for collecting and analyzing data submitted in paragraph (g)(2)(i) of this section, including a description of the State's efforts to make reporting of motor vehicle crashes involving motorcycles as complete as possible.

(h) *Impaired driving program.* (1) To satisfy this criterion, a State shall implement a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation. The program shall—

(i) Use State data to identify and prioritize the State's impaired driving

and impaired motorcycle operation problem areas; and

(ii) Include specific countermeasures to reduce impaired motorcycle operation with strategies designed to reach motorcyclists and motorists in those jurisdictions where the incidence of motorcycle crashes involving an impaired operator is highest.

(2) To demonstrate compliance with this criterion, the State shall submit—

(i) State data used to identify and prioritize the State's impaired driving and impaired motorcycle operation problem areas, including a list of counties or political subdivisions in the State ranked in order of the highest to lowest number of motorcycle crashes involving an impaired operator per county or political subdivision. Such data shall be from the most recent calendar year for which final State crash data is available, but data no older than two calendar years prior to the application due date (e.g., for a grant application submitted on July 1, 2013, a State shall provide calendar year 2012 data, if available, and may not provide data older than calendar year 2011);

(ii) A detailed description of the State's impaired driving program as implemented, including a description of each countermeasure established and proposed by the State to reduce impaired motorcycle operation, the amount of funds allotted or proposed for each countermeasure and a description of its specific strategies that are designed to reach motorcyclists and motorists in those jurisdictions where the incidence of motorcycle crashes involving an impaired operator is highest (i.e., the majority of counties or political subdivisions in the State with the highest numbers of motorcycle crashes involving an impaired operator); and

(iii) The legal citation(s) to the State statute or regulation defining impairment. (A State is not eligible for a grant under this criterion if its legal alcohol-impairment level exceeds .08 BAC.)

(i) *Reduction of fatalities and accidents involving impaired motorcyclists.* (1) To satisfy this criterion, a State shall demonstrate a reduction for the preceding calendar year in the number of fatalities and in the rate of reported crashes involving alcohol-impaired and

drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations), as computed by NHTSA. The State shall—

(i) Experience a reduction of at least one in the number of fatalities involving alcohol-and drug-impaired motorcycle operators for the most recent calendar year for which final FARS data is available as compared to the final FARS data for the calendar year immediately prior to that year; and

(ii) Based on State crash data expressed as a function of 10,000 motorcycle registrations (using FHWA motorcycle registration data), experience at least a whole number reduction in the rate of reported crashes involving alcohol-and drug-impaired motorcycle operators for the most recent calendar year for which final State crash data is available, but data no older than two calendar years prior to the application due date, as compared to the calendar year immediately prior to that year.

(2) To demonstrate compliance with this criterion, the State shall submit—

(i) State data showing the total number of reported crashes involving alcohol- and drug-impaired motorcycle operators in the State for the most recent calendar year for which final State crash data is available, but data no older than two calendar years prior to the application due date and the same type of data for the calendar year immediately prior to that year (e.g., for a grant application submitted on July 1, 2013, the State shall submit calendar year 2012 and 2011 data, if both data are available, and may not provide data older than calendar year 2011 and 2010, to determine the rate); and

(ii) A description of the State's methods for collecting and analyzing data submitted in paragraph (i)(2)(i) of this section, including a description of the State's efforts to make reporting of crashes involving alcohol-impaired and drug-impaired motorcycle operators as complete as possible; and

(iii) The legal citation(s) to the State statute or regulation defining alcohol-impaired and drug-impairment. (A State is not eligible for a grant under this criterion if its legal alcohol-impairment level exceeds .08 BAC.)

(j) *Use of fees collected from motorcyclists for motorcycle programs.* (1) To satisfy this criterion, a State shall have a process under which all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are used for motorcycle training and safety programs. A State may qualify under this criterion as either a Law State or a Data State.

(i) A Law State is a State that has a statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs.

(ii) A Data State is a State that does not have a statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs but can show through data and/or documentation from official records that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs, without diversion.

(2)(i) To demonstrate compliance as a Law State, the State shall submit the legal citation(s) to the statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs and the legal citation(s) to the State's current fiscal year appropriation (or preceding fiscal year appropriation, if the State has not enacted a law at the time of the State's application) appropriating all such fees to motorcycle training and safety programs.

(ii) To demonstrate compliance as a Data State, a State shall submit data or documentation from official records from the previous State fiscal year showing that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs. Such data or documentation shall show that revenues collected for

the purposes of funding motorcycle training and safety programs were placed into a distinct account and expended only for motorcycle training and safety programs.

(k) *Award limitation.* A grant awarded under the procedures described in § 1200.20(e)(1) may not exceed the amount of a grant made to State for fiscal year 2003 under 23 U.S.C. 402.

(l) *Use of grant funds.* (1) *Eligible uses.* A State may use grant funds awarded under this section for motorcyclist safety training and motorcyclist awareness programs, including—

(i) Improvements to motorcyclist safety training curricula;

(ii) Improvements in program delivery of motorcycle training to both urban and rural areas, including—

(A) Procurement or repair of practice motorcycles;

(B) Instructional materials;

(C) Mobile training units; and

(D) Leasing or purchasing facilities for closed-course motorcycle skill training;

(iii) Measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(iv) Public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the "share-the-road" safety messages developed using Share-the-Road model language available on NHTSA's Web site at <http://www.trafficsafetymarketing.gov>.

(2) *Suballocation of funds.* A State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out grant activities under this section.

#### § 1200.26 State graduated driver licensing incentive grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(g), for awarding grants to States that adopt and implement graduated driver's licensing laws that require novice drivers younger than 21 years of age to comply with a 2-stage licensing process prior to receiving a full driver's license.

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

*Conviction-free* means that, during the term of the permit or license covered by the program, the driver has not been convicted of any offense under State or local law relating to the use or operation of a motor vehicle, including but not limited to driving while intoxicated, reckless driving, driving without wearing a seat belt, speeding, prohibited use of a personal wireless communications device, and violation of the driving-related restrictions applicable to the stages of the graduated driver's licensing process set forth in paragraph (c) of this section, as well as misrepresentation of a driver's true age.

*Driving*, for purposes of paragraph (c)(2)(iii) of this section, means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise, but does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

*Full driver's license* means a license to operate a passenger motor vehicle on public roads at all times.

*Licensed driver* means a driver who possesses a valid full driver's license.

*Novice driver* means a driver who has not been issued by a State an intermediate license or full driver's license.

(c) *Qualification criteria.* (1) *General.* To qualify for a grant under this section, a State shall submit the assurances in Part 6 of Appendix D, signed by the Governor's Representative for Highway Safety, providing legal citations to the State statute or statutes demonstrating compliance with the requirements of paragraph (c)(2) of this section, and provide legal citation(s) to the statute or regulation or provide documentation demonstrating compliance with the requirements of paragraph (c)(3) of this section.

(2) *Graduated driver's licensing law.* A State's graduated driver's licensing law shall include a learner's permit stage and an intermediate stage meeting the following minimum requirements:

(i) The learner's permit stage shall—  
(A) Apply to any novice driver who is younger than 21 years of age prior to the receipt by such driver from the

State of any other permit or license to operate a motor vehicle;

(B) Commence only after an applicant for a learner's permit passes vision and knowledge tests, including tests about the rules of the road, signs, and signals;

(C) Subject to paragraph (c)(2)(iii)(B), be in effect for a period of at least six months, but may not expire until the driver reaches at least 16 years of age; and

(D) Require the learner's permit holder to—

(1) Be accompanied and supervised by a licensed driver who is at least 21 years of age at all times while the learner's permit holder is operating a motor vehicle;

(2) Receive not less than 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

(3) Complete a driver education or training course that has been certified by the State; and

(4) Pass a driving skills test prior to entering the intermediate stage or being issued another permit, license or endorsement.

(ii) The intermediate stage shall—

(A) Apply to any driver who has completed the learner's permit stage and who is younger than 18 years of age;

(B) Commence immediately after the expiration of the learner's permit stage;

(C) Subject to paragraph (c)(2)(iii)(B), be in effect for a period of at least six months, but may not expire until the driver reaches at least 18 years of age;

(D) Require the intermediate license holder to be accompanied and supervised by a licensed driver who is at least 21 years of age during the period of time between the hours of 10:00 p.m. and 5:00 a.m., except in case of emergency; and

(E) Prohibit the intermediate license holder from operating a motor vehicle with more than one nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle.

(iii) During both the learner's permit and intermediate stages, the State shall—

(A) Impose a prohibition enforced as a primary offense on use of a cellular

## NHTSA and FHWA, DOT

## § 1200.30

telephone or any communications device by the driver while driving, except in case of emergency; and

(B) Require that the driver who possesses a learner's permit or intermediate license remain conviction-free for a period of not less than six consecutive months immediately prior to the expiration of that stage.

(3) *Requirement for license distinguishability.* The State learner's permit, intermediate license, and full driver's license shall be distinguishable from each other. A State may satisfy this requirement by submitting—

(i) Legal citations to the State statute or regulation requiring that the State learner's permit, intermediate license, and full driver's license be visually distinguishable;

(ii) Sample permits and licenses that contain visual features that would enable a law enforcement officer to distinguish between the State learner's permit, intermediate license, and full driver's license; or

(iii) A description of the State's system that enables law enforcement officers in the State during traffic stops to distinguish between the State learner's permit, intermediate license, and full driver's license.

(4) *Exceptions.* A State that otherwise meets the minimum requirements set forth in paragraph (c)(2) of this section will not be deemed ineligible for a grant under this section if—

(i) The State enacted a law prior to January 1, 2011, establishing a class of permit or license that allows drivers younger than 18 years of age to operate a motor vehicle—

(A) In connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

(B) If demonstrable hardship would result from the denial of a license to the licensees or applicants, provided that the State requires the applicant or licensee to affirmatively and adequately demonstrate unique undue hardship to the individual; and

(ii) Drivers who possess only the permit or license permitted under paragraph (c)(4)(i) of this section are treated as novice drivers subject to the graduated driver's licensing require-

ments of paragraph (c)(2) of this section as a pre-condition of receiving any other permit, license or endorsement.

(d) *Award.* (1) *Grant Amount.* Subject to paragraph (d)(2) of this section, grant funds for a fiscal year under this section shall be allocated among States that meet the qualification criteria on the basis of the apportionment formula under 23 U.S.C. 402 for that fiscal year.

(2) *Limitation.* Amount of grant award to a State under this section may not exceed 10 percent of the total amount made available for Section 405(g) for that fiscal year.

(e) *Use of grant funds.* A State may use grant funds awarded under this section as follows:

(1) At least 25 percent of the grant funds shall be used, in connection with the State's graduated driver's licensing law that complies with the minimum requirements set forth in paragraph (c) of this section, to:

(i) Enforce the graduated driver's licensing process;

(ii) Provide training for law enforcement personnel and other relevant State agency personnel relating to the enforcement of the graduated driver's licensing process;

(iii) Publish relevant educational materials that pertain directly or indirectly to the State graduated driver's licensing law;

(iv) Carry out administrative activities to implement the State's graduated driver's licensing process; or

(v) Carry out a teen traffic safety program described in 23 U.S.C. 402(m);

(2) No more than 75 percent may be used for any eligible project or activity under 23 U.S.C. 402.

### Subpart D—Administration of the Highway Safety Grants

#### § 1200.30 General.

Subject to the provisions of this subpart, the requirements of 49 CFR part 18 and applicable cost principles govern the implementation and management of State highway safety programs and projects carried out under 23 U.S.C. Chapter 4. Cost principles include those referenced in 49 CFR 18.22.

## § 1200.31

## 23 CFR Ch. II (4–1–23 Edition)

### § 1200.31 Equipment.

(a) *Title.* Except as provided in paragraphs (e) and (f) of this section, title to equipment acquired under 23 U.S.C. Chapter 4 will vest upon acquisition in the State or its subgrantee, as appropriate.

(b) *Use.* All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the Approving Official, and neither the State nor any of its subgrantees or contractors shall encumber the title or interest while such need exists.

(c) *Management and disposition.* Subject to the requirement of paragraphs (b), (d), (e) and (f) of this section, States and their subgrantees and contractors shall manage and dispose of equipment acquired under 23 U.S.C. Chapter 4 in accordance with State laws and procedures.

(d) *Major purchases and dispositions.* Equipment with a useful life of more than one year and an acquisition cost of \$5,000 or more shall be subject to the following requirements—

(1) Purchases shall receive prior written approval from the Approving Official;

(2) Dispositions shall receive prior written approval from the Approving Official unless the age of the equipment has exceeded its useful life as determined under State law and procedures.

(e) *Right to transfer title.* The Approving Official may reserve the right to transfer title to equipment acquired under 23 U.S.C. Chapter 4 to the Federal Government or to a third party when such third party is eligible under Federal statute. Any such transfer shall be subject to the following requirements:

(1) The equipment shall be identified in the grant or otherwise made known to the State in writing;

(2) The Approving Official shall issue disposition instructions within 120 calendar days after the equipment is determined to be no longer needed for highway safety purposes, in the absence of which the State shall follow the applicable procedures in 49 CFR part 18.

(f) *Federally-owned equipment.* In the event a State or its subgrantee is provided Federally-owned equipment:

(1) Title shall remain vested in the Federal Government;

(2) Management shall be in accordance with Federal rules and procedures, and an annual inventory listing shall be submitted;

(3) The State or its subgrantee shall request disposition instructions from the Approving Official when the item is no longer needed for highway safety purposes.

### § 1200.32 Changes—Approval of the Approving Official.

States shall provide documentary evidence of any reallocation of funds between program areas by submitting to the NHTSA regional office an amended HS Form 217, reflecting the changed allocation of funds and updated list of projects under each program area, as provided in §1200.11(e), within 30 days of implementing the change. The amended HS Form 217 and list of projects is subject to the approval of the Approving Official.

### § 1200.33 Vouchers and project agreements.

(a) *General.* Each State shall submit official vouchers for expenses incurred to the Approving Official.

(b) *Content of vouchers.* At a minimum, each voucher shall provide the following information for expenses claimed in each program area:

(1) Program Area for which expenses were incurred and an itemization of project numbers and amount of Federal funds expended for each project for which reimbursement is being sought;

(2) Federal funds obligated;

(3) Amount of Federal funds allocated to local benefit (provided no less than mid-year (by March 31) and with the final voucher);

(4) Cumulative Total Cost to Date;

(5) Cumulative Federal Funds Expended;

(6) Previous Amount Claimed;

(7) Amount Claimed this Period;

(8) Matching rate (or special matching writeoff used, *i.e.*, sliding scale rate authorized under 23 U.S.C. 120).

(c) *Project agreements.* Copies of each project agreement for which expenses

are being claimed under the voucher (and supporting documentation for the vouchers) shall be made promptly available for review by the Approving Official upon request. Each project agreement shall bear the project number to allow the Approving Official to match the voucher to the corresponding activity.

(d) *Submission requirements.* At a minimum, vouchers shall be submitted to the Approving Official on a quarterly basis, no later than 15 working days after the end of each quarter, except that where a State receives funds by electronic transfer at an annualized rate of one million dollars or more, vouchers shall be submitted on a monthly basis, no later than 15 working days after the end of each month. A final voucher shall be submitted to the Approving Official no later than 90 days after the end of the fiscal year, and all unexpended balances shall be carried forward to the current fiscal year.

(e) *Reimbursement.* (1) Failure to provide the information specified in paragraph (b) of this section shall result in rejection of the voucher.

(2) Failure to meet the deadlines specified in paragraph (d) of this section may result in delayed reimbursement.

(3) Vouchers that request reimbursement for projects whose project numbers or amounts claimed do not match the list of projects or exceed the estimated amount of Federal funds provided under § 1200.11(e), or exceed the allocation of funds to a program area in the HS Form 217, shall be rejected, in whole or in part, until an amended list of projects and/or estimated amount of Federal funds and an amended HS Form 217 is submitted to and approved by the Approving Official in accordance with § 1200.32.

#### § 1200.34 Program income.

(a) *Definition.* Program income means gross income received by the grantee or subgrantee directly generated by a program supported activity, or earned only as a result of the grant agreement during the period of time between the effective date of the grant award and the expiration date of the grant award.

(b) *Inclusions.* Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the grant agreement, and from payments of principal and interest on loans made with grant funds.

(c) *Exclusions.* Program income does not include interest on grant funds, rebates, credits, discounts, refunds, taxes, special assessments, levies, fines, proceeds from the sale of real property or equipment, income from royalties and license fees for copyrighted material, patents, and inventions, or interest on any of these.

(d) *Use of program income.* (1) *Addition.* Program income shall ordinarily be added to the funds committed to the Highway Safety Plan. Such program income shall be used to further the objectives of the program area under which it was generated.

(2) *Cost sharing or matching.* Program income may be used to meet cost sharing or matching requirements only upon written approval of the Approving Official. Such use shall not increase the commitment of Federal funds.

#### § 1200.35 Annual Report.

Within 90 days after the end of the fiscal year, each State shall submit an Annual Report describing—

(a) A general assessment of the State's progress in achieving highway safety performance measure targets identified in the Highway Safety Plan;

(b) A general description of the projects and activities funded and implemented under the Highway Safety Plan;

(c) The amount of Federal funds expended on projects from the Highway Safety Plan; and

(d) How the projects funded during the fiscal year contributed to meeting the State's highway safety targets. Where data becomes available, a State should report progress from prior year projects that have contributed to meeting current State highway safety targets.

**§ 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.

## § 1200.60

(3) If the Administrator decides, after reviewing all relevant information submitted, that the State is not implementing an approved highway safety program in accordance with 23 U.S.C. 402, the Administrator shall issue a final notice, advising the State either of the funds being withheld from apportionment under 23 U.S.C. 402, or of the amount of funds reduced from the apportionment under 23 U.S.C. 402. The final notice will normally be issued no later than September 30. The final notice of a reduction will be issued at the time of a final decision.

### **Subpart G—Special Provisions for Fiscal Year 2013 Highway Safety Grants and Highway Safety Grants Under Prior Authorizations**

#### **§ 1200.60 Fiscal year 2013 Section 402 grants.**

Highway safety grants apportioned under 23 U.S.C. 402 for fiscal year 2013 shall be governed by the applicable implementing regulations at the time of grant award.

#### **§ 1200.61 Fiscal year 2013 Section 405 grants.**

(a) For fiscal year 2013 grants authorized under 23 U.S.C. 405(b), (c), (d), (f) and (g), a State shall submit electronically its application as provided in § 1200.11(h) to *NHTSAGrants@dot.gov* no later than March 25, 2013.

(b) If a State's application contains incomplete information, NHTSA may request additional information from the State prior to making a determination of award for each component of the Section 405 grant program. Failure to respond promptly for request of additional information may result in a State's disqualification from one or more Section 405 grants for fiscal year 2013.

(c) After reviewing applications and making award determinations, NHTSA shall, in writing, distribute funds available for obligation under Section 405 to qualifying States and specify any conditions or limitations imposed by law on the use of the funds.

(d) Grant awards are subject to the availability of funds. If there are insufficient funds to award full grant

## 23 CFR Ch. II (4–1–23 Edition)

amounts to qualifying States, NHTSA may release interim amounts and release the remainder, up to the State's proportionate share of available funds, when it becomes available in the fiscal year.

(e) The administration, reconciliation and noncompliance provisions of subparts D through F of this part apply to fiscal year 2013 grants awarded to qualifying States.

#### **§ 1200.62 Pre-2013 fiscal year grants.**

Highway safety grants rescinded by MAP-21 are governed by the applicable implementing regulations at the time of grant award.

### **APPENDIX A TO PART 1200—CERTIFICATION AND ASSURANCES FOR HIGHWAY SAFETY GRANTS (23 U.S.C. CHAPTER 4)**

State: \_\_\_\_\_  
Fiscal Year: \_\_\_\_\_

Each fiscal year the State must sign these Certifications and Assurances that it complies with all requirements including applicable Federal statutes and regulations that are in effect during the grant period. (Requirements that also apply to subrecipients are noted under the applicable caption.)

In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following certifications and assurances:

#### **GENERAL REQUIREMENTS**

To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for Section 402 and Section 405 grants is accurate and complete. (Incomplete or incorrect information may result in the disapproval of the Highway Safety Plan.)

The Governor is the responsible official for the administration of the State highway safety program through a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended

## NHTSA and FHWA, DOT

## Pt. 1200, App. A

- 49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR Part 1200—Uniform Procedures for State Highway Safety Grant Programs

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

### FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, *OMB Guidance on FFATA Subaward and Executive Compensation Reporting*, August 27, 2010, ([https://www.fsrcs.gov/documents/OMB\\_Guidance\\_on\\_FFATA\\_Subaward\\_and\\_Executive\\_Compensation\\_Reporting\\_08272010.pdf](https://www.fsrcs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf)) by reporting to FSRCS.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
  - (i) the entity in the preceding fiscal year received—
    - (I) 80 percent or more of its annual gross revenues in Federal awards;
    - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
  - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

### NONDISCRIMINATION

(APPLIES TO SUBRECIPIENTS AS WELL AS STATES)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), which prohibits discrimination on the basis of race, color or

national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, *et seq.*), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, *et seq.*), relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

### THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- Establishing a drug-free awareness program to inform employees about:
  - The dangers of drug abuse in the workplace.
  - The grantee's policy of maintaining a drug-free workplace.
  - Any available drug counseling, rehabilitation, and employee assistance programs.
  - The penalties that may be imposed upon employees for drug violations occurring in the workplace.
  - Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).

**Pt. 1200, App. A**

- Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

- Abide by the terms of the statement.
  - Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

- Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction.

- Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

- Taking appropriate personnel action against such an employee, up to and including termination.

- Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

- Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

**BUY AMERICA ACT**

(APPLIES TO SUBRECIPIENTS AS WELL AS STATES)

The State will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

**POLITICAL ACTIVITY (HATCH ACT)**

(APPLIES TO SUBRECIPIENTS AS WELL AS STATES)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501–1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

**23 CFR Ch. II (4–1–23 Edition)**

**CERTIFICATION REGARDING FEDERAL LOBBYING**

(APPLIES TO SUBRECIPIENTS AS WELL AS STATES)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**RESTRICTION ON STATE LOBBYING**

(APPLIES TO SUBRECIPIENTS AS WELL AS STATES)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., “grassroots”) lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA

funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

**CERTIFICATION REGARDING  
DEBARMENT AND SUSPENSION**

(APPLIES TO SUBRECIPIENTS AS WELL AS  
STATES)

**Instructions for Primary Certification**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment

under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension,  
and Other Responsibility Matters-Primary  
Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them

for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily

excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

#### *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions:*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's Web site at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, DC metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its Web site at [www.trafficsafety.org](http://www.trafficsafety.org).

## POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

## ENVIRONMENTAL IMPACT

The Governor's Representative for Highway Safety has reviewed the State's Fiscal Year highway safety planning document and hereby declares that no significant environmental impact will result from implementing this Highway Safety Plan. If, under a future revision, this Plan is modified in a manner that could result in a significant environmental impact and trigger the need for an environmental review, this office is pre-

pared to take the action necessary to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1517).

## SECTION 402 REQUIREMENTS

The political subdivisions of this State are authorized, as part of the State highway safety program, to carry out within their jurisdictions local highway safety programs which have been approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary of Transportation. (23 U.S.C. 402(b)(1)(B))

At least 40 percent (or 95 percent, as applicable) of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or for the benefit of the political subdivision of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C), 402(h)(2)), unless this requirement is waived in writing.

The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))

The State will provide for an evidenced-based traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. (23 U.S.C. 402(b)(1)(E))

The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State as identified by the State highway safety planning process, including:

- Participation in the National high-visibility law enforcement mobilizations;
- Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
- An annual statewide seat belt use survey in accordance with 23 CFR Part 1340 for the measurement of State seat belt use rates;
- Development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
- Coordination of Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a).

(23 U.S.C. 402(b)(1)(F))

The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International

**Pt. 1200, App. B**

**23 CFR Ch. II (4–1–23 Edition)**

Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))

The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. (23 U.S.C. 402(c)(4))

I understand that failure to comply with applicable Federal statutes and regulations may subject State officials to civil or criminal penalties and/or place the State in a high risk grantee status in accordance with 49 CFR 18.12.

I sign these Certifications and Assurances based on personal knowledge, after appropriate inquiry, and I understand that the Government will rely on these representations in awarding grant funds.

Signature \_\_\_\_\_ Governor's Representative for Highway Safety Date \_\_\_\_\_

Date \_\_\_\_\_

Printed name of Governor's Representative for Highway Safety \_\_\_\_\_

**APPENDIX B TO PART 1200—HIGHWAY SAFETY PROGRAM COST SUMMARY (HS-217)**

State \_\_\_\_\_  
Number \_\_\_\_\_  
Date \_\_\_\_\_

Program area	Approved program costs	State/local funds	Federally funded programs			Federal share to local
			Previous balance	Increase/(Decrease)	Current Balance	
Total NHTSA						
Total FHWA						
Total NHTSA & FHWA						

**STATE OFFICIAL AUTHORIZED SIGNATURE:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FEDERAL OFFICIAL AUTHORIZED SIGNATURE:**

NHTSA Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EFFECTIVE DATE:** This form is to be used to provide funding documentation for grant programs under Title 23, United States Code. A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is \_\_\_\_\_. Public reporting for this collection of information is estimated to be approximately 30 minutes per response, including the time for reviewing instructions and completing the form. All responses to this collection of information are required to obtain or retain benefits. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington DC 20590.

**INSTRUCTIONS FOR PROGRAM COST SUMMARY**

**State**—The State submitting the HS Form-217

**Number**—Each HS-217 will be in sequential order by fiscal year (e.g., 99-01, 99-02, etc.)

**Date**—The date of occurrence of the accounting action(s) described.

**Program Area**—The code designating a program area (e.g., PT-99, where PT represents the Police Traffic Services and 99 represents the Federal fiscal year). Funds should be entered only at the program area level, not at the task level or lower.

**Approved Program Costs**—The current balance of Federal funds approved (but not obligated) under the HSP or under any portion of or amendment to the HSP.

**State/local Funds**—Those funds which the State and its political subdivisions are contributing to the program, including both hard and soft match.

**Previous Balance**—The balance of Federal funds obligated and available for expenditure by the State in the current fiscal year, as of the last Federally-approved transaction. The total of this column may not exceed the sum of the State's current year obligation limitation and prior year funds carried forward. (The column is left blank on the updated Cost Summary required to be submitted under 23 CFR 1200.11(e). For subsequent submissions, the amounts in this column are obtained from the "Current Balance" column of the immediately preceding Cost Summary.)

**Increase/(Decrease)**—The amount of change in Federal funding, by program area, from

## NHTSA and FHWA, DOT

## Pt. 1200, App. D

the funding reflected under the "Previous Balance".

Current Balance—The net total of the "Previous Balance" and the "Increase/(Decrease)" amounts. The total of this column may not exceed the sum of the State's current year obligation limitation and prior year funds carried forward.

### APPENDIX C TO PART 1200—ASSURANCES FOR TEEN TRAFFIC SAFETY PROGRAM

State: \_\_\_\_\_

Fiscal Year: \_\_\_\_\_

*The State has elected to implement a Teen Traffic Safety Program—a statewide program to improve traffic safety for teen drivers—in accordance with 23 U.S.C. 402(m).*

In my capacity as the Governor's Representative for Highway Safety, I have verified that—

- The Teen Traffic Safety Program is a separately described Program Area in the Highway Safety Plan, including a specific description of the strategies and projects, and appears in HSP page number(s) \_\_\_\_\_.

- as required under 23 U.S.C. 402(m), the statewide efforts described in the pages identified above include peer-to-peer education and prevention strategies the State will use in schools and communities that are designed to—

- increase seat belt use;
- reduce speeding;
- reduce impaired and distracted driving;
- reduce underage drinking; and
- reduce other behaviors by teen drivers that lead to injuries and fatalities.

Signature Governor's Representative for Highway Safety \_\_\_\_\_

Date \_\_\_\_\_

Printed name of Governor's Representative for Highway Safety \_\_\_\_\_

### APPENDIX D TO PART 1200—CERTIFICATIONS AND ASSURANCES FOR NATIONAL PRIORITY SAFETY PROGRAM GRANTS (23 U.S.C. 405)

State: \_\_\_\_\_

Fiscal Year: \_\_\_\_\_

Each fiscal year the State must sign these Certifications and Assurances that it complies with all requirements, including applicable Federal statutes and regulations that are in effect during the grant period.

In my capacity as the Governor's Representative for Highway Safety, I:

- certify that, to the best of my personal knowledge, the information submitted to the National Highway Traffic Safety Administration in support of the State's application

for Section 405 grants below is accurate and complete.

- understand that incorrect, incomplete, or untimely information submitted in support of the State's application may result in the denial of an award under Section 405.

- agree that, as condition of the grant, the State will use these grant funds in accordance with the specific requirements of Section 405(b), (c), (d), (e), (f) and (g), as applicable.

- agree that, as a condition of the grant, the State will comply with all applicable laws and regulations and financial and programmatic requirements for Federal grants.

Signature Governor's Representative for Highway Safety \_\_\_\_\_

Date \_\_\_\_\_

Printed name of Governor's Representative for Highway Safety \_\_\_\_\_

Instructions: Check the box for each part for which the State is applying for a grant, fill in relevant blanks, and identify the attachment number or page numbers where the requested information appears in the HSP. Attachments may be submitted electronically.

#### ☐ PART 1: OCCUPANT PROTECTION (23 CFR 1200.21)

All States: *[Fill in all blanks below.]*

- The State will maintain its aggregate expenditures from all State and local sources for occupant protection programs at or above the average level of such expenditures in fiscal years 2010 and 2011. (23 U.S.C. 405(a)(1)(H))

- The State will participate in the Click it or Ticket national mobilization in the fiscal year of the grant. The description of the State's planned participation is provided as HSP attachment or page # \_\_\_\_.

- The State's occupant protection plan for the upcoming fiscal year is provided as HSP attachment or page # \_\_\_\_.

- Documentation of the State's active network of child restraint inspection stations is provided as HSP attachment or page # \_\_\_\_.

- The State's plan for child passenger safety technicians is provided as HSP attachment or page # \_\_\_\_.

Lower Seat belt Use States: *[Check at least 3 boxes below and fill in all blanks under those checked boxes.]*

☐ The State's primary seat belt use law, requiring all occupants riding in a passenger motor vehicle to be restrained in a seat belt or a child restraint, was enacted on \_\_\_\_/\_\_\_\_/\_\_\_\_ and last amended on \_\_\_\_/\_\_\_\_/\_\_\_\_, is in effect, and will be enforced during the fiscal year of the grant.

Legal citation(s): \_\_\_\_\_

☐ The State's occupant protection law, requiring occupants to be secured in a seat belt or age-appropriate child restraint while in a passenger motor vehicle and a minimum fine of \$25, was enacted on \_\_/\_\_/\_\_ and last amended on \_\_/\_\_/\_\_, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

• \_\_\_\_\_ Requirement for all occupants to be secured in seat belt or age appropriate child restraint

• \_\_\_\_\_ Coverage of all passenger motor vehicles

• \_\_\_\_\_ Minimum fine of at least \$25

• \_\_\_\_\_ Exemptions from restraint requirements

☐ The State's seat belt enforcement plan is provided as HSP attachment or page # \_\_\_\_\_.

☐ The State's comprehensive occupant protection program is provided as HSP attachment # \_\_\_\_\_.

[Check one box below and fill in any blanks under that checked box.]

☐ The State's NHTSA-facilitated occupant protection program assessment was conducted on \_\_/\_\_/\_\_;

OR

☐ The State agrees to conduct a NHTSA-facilitated occupant protection program assessment by September 1 of the fiscal year of the grant. (This option is available only for fiscal year 2013 grants.)

☐ PART 2: STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS (23 CFR 1200.22)

• The State will maintain its aggregate expenditures from all State and local sources for traffic safety information system programs at or above the average level of such expenditures in fiscal years 2010 and 2011.

[Fill in at least one blank for each bullet below.]

• A copy of [check one box only] the ☐ TRCC charter or the ☐ statute legally mandating a State TRCC is provided as HSP attachment # \_\_\_\_\_ or submitted electronically through the TRIPRS database on \_\_/\_\_/\_\_.

• A copy of meeting schedule and all reports and other documents promulgated by the TRCC during the 12 months preceding the application due date is provided as HSP attachment # \_\_\_\_\_ or submitted electronically through the TRIPRS database on \_\_/\_\_/\_\_.

• A list of the TRCC membership and the organization and function they represent is provided as HSP attachment # \_\_\_\_\_ or submitted electronically through the TRIPRS database on \_\_/\_\_/\_\_.

• The name and title of the State's Traffic Records Coordinator is \_\_\_\_\_.

• A copy of the State Strategic Plan, including any updates, is provided as HSP attachment # \_\_\_\_\_ or submitted electronically through the TRIPRS database on \_\_/\_\_/\_\_.

• [Check one box below and fill in any blanks under that checked box.]

☐ The following pages in the State's Strategic Plan provides a written description of the performance measures, and all supporting data, that the State is relying on to demonstrate achievement of the quantitative improvement in the preceding 12 months of the application due date in relation to one or more of the significant data program attributes: pages \_\_\_\_\_.

OR

☐ If not detailed in the State's Strategic Plan, the written description is provided as HSP attachment # \_\_\_\_\_.

• The State's most recent assessment or update of its highway safety data and traffic records system was completed on \_\_/\_\_/\_\_.

☐ PART 3: IMPAIRED DRIVING COUNTERMEASURES (23 CFR 1200.23)

All States:

• The State will maintain its aggregate expenditures from all State and local sources for impaired driving programs at or above the average level of such expenditures in fiscal years 2010 and 2011.

• The State will use the funds awarded under 23 U.S.C. 405(d) only for the implementation of programs as provided in 23 CFR 1200.23(i) in the fiscal year of the grant.

Mid-Range State:

• [Check one box below and fill in any blanks under that checked box.]

☐ The statewide impaired driving plan approved by a statewide impaired driving task force was issued on \_\_/\_\_/\_\_ and is provided as HSP attachment # \_\_\_\_\_.

OR

☐ For this first year of the grant as a mid-range State, the State agrees to convene a statewide impaired driving task force to develop a statewide impaired driving plan and submit a copy of the plan to NHTSA by September 1 of the fiscal year of the grant.

• A copy of information describing the statewide impaired driving task force is provided as HSP attachment # \_\_\_\_\_.

High-Range State:

[Check one box below and fill in any blanks under that checked box.]

☐ A NHTSA-facilitated assessment of the State's impaired driving program was conducted on \_\_/\_\_/\_\_;

OR

☐ For the first year of the grant as a high-range State, the State agrees to conduct a NHTSA-facilitated assessment by September 1 of the fiscal year of the grant;

## NHTSA and FHWA, DOT

## Pt. 1200, App. D

• [Check one box below and fill in any blanks under that checked box.]

☐ For the first year of the grant as a high-range State, the State agrees to convene a statewide impaired driving task force to develop a statewide impaired driving plan addressing recommendations from the assessment and submit the plan to NHTSA for review and approval by September 1 of the fiscal year of the grant;

OR

☐ For subsequent years of the grant as a high-range State, the statewide impaired driving plan developed or updated on \_\_\_/\_\_\_/\_\_\_ is provided as HSP attachment # \_\_\_\_.

• A copy of the information describing the statewide impaired driving task force is provided as HSP attachment # \_\_\_\_.

Ignition Interlock Law: [Fill in all blanks below.]

• The State's ignition interlock law was enacted on \_\_\_/\_\_\_/\_\_\_ and last amended on \_\_\_/\_\_\_/\_\_\_, is in effect, and will be enforced during the fiscal year of the grant.

Legal citation(s):

### ☐ PART 4: DISTRACTED DRIVING (23 CFR 1200.24)

[Fill in all blanks below.]

#### Prohibition on Texting While Driving

The State's texting ban statute, prohibiting texting while driving, a minimum fine of at least \$25, and increased fines for repeat offenses, was enacted on \_\_\_/\_\_\_/\_\_\_ and last amended on \_\_\_/\_\_\_/\_\_\_, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

• \_\_\_\_\_ Prohibition on texting while driving  
• \_\_\_\_\_ Definition of covered wireless communication devices  
• \_\_\_\_\_ Minimum fine of at least \$25 for first offense  
• \_\_\_\_\_ Increased fines for repeat offenses  
• \_\_\_\_\_ Exemptions from texting ban

#### PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING

The State's youth cell phone use ban statute, prohibiting youth cell phone use while driving, driver license testing of distracted driving issues, a minimum fine of at least \$25, increased fines for repeat offenses, was enacted on \_\_\_/\_\_\_/\_\_\_ and last amended on \_\_\_/\_\_\_/\_\_\_, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

• \_\_\_\_\_ Prohibition on youth cell phone use while driving  
• \_\_\_\_\_ Driver license testing of distracted driving issues

• \_\_\_\_\_ Minimum fine of at least \$25 for first offense

• \_\_\_\_\_ Increased fines for repeat offenses

• \_\_\_\_\_ Exemptions from youth cell phone use ban

### ☐ PART 5: MOTORCYCLIST SAFETY (23 CFR 1200.25)

[Check at least 2 boxes below and fill in any blanks under those checked boxes.]

☐ Motorcycle riding training course:

• Copy of official State document (e.g., law, regulation, binding policy directive, letter from the Governor) identifying the designated State authority over motorcyclist safety issues is provided as HSP attachment # \_\_\_\_.

• Document(s) showing the designated State authority approving the training curriculum that includes instruction in crash avoidance and other safety-oriented operational skills for both in-class and on-the-motorcycle is provided as HSP attachment # \_\_\_\_.

• Document(s) regarding locations of the motorcycle rider \_\_\_\_.

• Document showing that certified motorcycle rider training instructors teach the motorcycle riding training course is provided as HSP attachment # \_\_\_\_.

• Description of the quality control procedures to assess motorcycle rider training courses and instructor training courses and actions taken to improve courses is provided as HSP attachment # \_\_\_\_.

☐ Motorcyclist awareness program:

• Copy of official State document (e.g., law, regulation, binding policy directive, letter from the Governor) identifying the designated State authority over motorcyclist safety issues is provided as HSP attachment # \_\_\_\_.

• Letter from the Governor's Representative for Highway Safety regarding the development of the motorcyclist awareness program is provided as HSP attachment # \_\_\_\_.

• Data used to identify and prioritize the State's motorcyclist safety program areas is provided as HSP attachment or page # \_\_\_\_.

• Description of how the State achieved collaboration among agencies and organizations regarding motorcycle safety issues is provided as HSP attachment # or page # \_\_\_\_.

• Copy of the State strategic communications plan is provided as HSP attachment # \_\_\_\_.

☐ Reduction of fatalities and crashes involving motorcycles:

• Data showing the total number of motor vehicle crashes involving motorcycles is provided as HSP attachment or page # \_\_\_\_.

• Description of the State's methods for collecting and analyzing data is provided as HSP attachment or page # \_\_\_\_.

☐ Impaired driving program:

**Pt. 1200, App. E**

**23 CFR Ch. II (4–1–23 Edition)**

- Data used to identify and prioritize the State's impaired driving and impaired motorcycle operation problem areas is provided as HSP attachment or page # \_\_\_\_.

- Detailed description of the State's impaired driving program is provided as HSP attachment or page # \_\_\_\_.

- The State law or regulation defines impairment. Legal citation(s): \_\_\_\_\_

☐ Reduction of fatalities and accidents involving impaired motorcyclists:

- Data showing the total number of reported crashes involving alcohol-impaired and drug-impaired motorcycle operators is provided as HSP attachment or page # \_\_\_\_.

- Description of the State's methods for collecting and analyzing data is provided as HSP attachment or page # \_\_\_\_.

- The State law or regulation defines impairment. Legal citation(s): \_\_\_\_\_

☐ Use of fees collected from motorcyclists for motorcycle programs: *[Check one box below and fill in any blanks under the checked box.]*

☐ Applying as a Law State—

- The State law or regulation requires all fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs. Legal citation(s): \_\_\_\_\_

AND

- The State's law appropriating funds for FY \_\_\_\_ requires all fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs be spent on motorcycle training and safety programs. Legal citation(s): \_\_\_\_\_

☐ Applying as a Data State—

- Data and/or documentation from official State records from the previous fiscal year showing that *all* fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs were used for motorcycle training and safety programs is provided as HSP attachment # \_\_\_\_.

☐ PART 6: STATE GRADUATED DRIVER LICENSING LAWS (23 CFR 1200.26)

*[Fill in all applicable blanks below.]*

The State's graduated driver licensing statute, requiring both a learner's permit stage and intermediate stage prior to receiving a full driver's license, was enacted on \_\_\_\_/\_\_\_\_/\_\_\_\_ and last amended on \_\_\_\_/\_\_\_\_/\_\_\_\_, is in effect, and will be enforced during the fiscal year of the grant.

Learner's Permit Stage—requires testing and education, driving restrictions, minimum duration, and applicability to novice drivers younger than 21 years of age.

Legal citations: \_\_\_\_\_

- \_\_\_\_ Testing and education requirements

- \_\_\_\_ Driving restrictions

- \_\_\_\_ Minimum duration

- \_\_\_\_ Applicability to novice drivers younger than 21 years of age

- \_\_\_\_ Exemptions from graduated driver licensing law

Intermediate Stage—requires driving restrictions, minimum duration, and applicability to any driver who has completed the learner's permit stage and who is younger than 18 years of age.

Legal citations: \_\_\_\_\_

- \_\_\_\_ Driving restrictions

- \_\_\_\_ Minimum duration

- \_\_\_\_ Applicability to any driver who has completed the learner's permit stage and is younger than 18 years of age

- \_\_\_\_ Exemptions from graduated driver licensing law

**ADDITIONAL REQUIREMENTS DURING BOTH LEARNER'S PERMIT AND INTERMEDIATE STAGES**

Prohibition enforced as a primary offense on use of a cellular telephone or any communications device by the driver while driving, except in case of emergency. Legal citation(s): \_\_\_\_\_

Requirement that the driver who possesses a learner's permit or intermediate license remain conviction-free for a period of not less than six consecutive months immediately prior to the expiration of that stage. Legal citation(s): \_\_\_\_\_

License Distinguishability *(Check one box below and fill in any blanks under that checked box.)*

☐ Requirement that the State learner's permit, intermediate license, and full driver's license are visually distinguishable. Legal citation(s): \_\_\_\_\_

OR

☐ Sample permits and licenses containing visual features that would enable a law enforcement officer to distinguish between the State learner's permit, intermediate license, and full driver's license, are provided as HSP attachment # \_\_\_\_.

OR

☐ Description of the State's system that enables law enforcement officers in the State during traffic stops to distinguish between the State learner's permit, intermediate license, and full driver's license, are provided as HSP attachment # \_\_\_\_.

**APPENDIX E TO PART 1200—PARTICIPATION BY POLITICAL SUBDIVISIONS**

(a) Policy. To ensure compliance with the provisions of 23 U.S.C. 402(b)(1)(C) and 23

U.S.C. 402(h)(2), which require that at least 40 percent or 95 percent of all Federal funds apportioned under Section 402 to the State or the Secretary of Interior, respectively, will be expended by political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs, the NHTSA Approving Official will determine if the political subdivisions had an active voice in the initiation, development and implementation of the programs for which funds apportioned under 23 U.S.C. 402 are expended.

(b) Terms.

*Local participation* refers to the minimum 40 percent or 95 percent (Indian Nations) that must be expended by or for the benefit of political subdivisions.

*Political subdivision* includes Indian tribes, for purpose and application to the apportionment to the Secretary of Interior.

(c) Determining local share.

(1) In determining whether a State meets the local share requirement in a fiscal year, NHTSA will apply the requirement sequentially to each fiscal year's apportionments, treating all apportionments made from a single fiscal year's authorizations as a single entity for this purpose. Therefore, at least 40 percent of each State's apportionments (or at least 95 percent of the apportionment to the Secretary of Interior) from each year's authorizations must be used in the highway safety programs of its political subdivisions prior to the period when funds would normally lapse. The local participation requirement is applicable to the State's total federally funded safety program irrespective of Standard designation or Agency responsibility.

(2) When Federal funds apportioned under 23 U.S.C. 402 are expended by a political subdivision, such expenditures are clearly part of the local share. Local highway safety-project-related expenditures and associated indirect costs, which are reimbursable to the grantee local governments, are classifiable as local share. Illustrations of such expenditures are the costs incurred by a local government in planning and administration of highway safety project-related activities, such as occupant protection, traffic records system improvements, emergency medical services, pedestrian and bicycle safety activities, police traffic services, alcohol and other drug countermeasures, motorcycle safety, and speed control.

(3) When Federal funds apportioned under 23 U.S.C. 402 are expended by a State agency for the benefit of a political subdivision, such funds may be considered as part of the local share, provided that the political subdivision has had an active voice in the initiation, development, and implementation of the programs for which such funds are expended. A State may not arbitrarily ascribe State agency expenditures as "benefitting

local government." Where political subdivisions have had an active voice in the initiation, development, and implementation of a particular program or activity, and a political subdivision which has not had such active voice agrees in advance of implementation to accept the benefits of the program, the Federal share of the cost of such benefits may be credited toward meeting the local participation requirement. Where no political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, but a political subdivision requests the benefits of the program as part of the local government's highway safety program, the Federal share of the cost of such benefits may be credited toward meeting the local participation requirement. Evidence of consent and acceptance of the work, goods or services on behalf of the local government must be established and maintained on file by the State until all funds authorized for a specific year are expended and audits completed.

(4) State agency expenditures which are generally not classified as local are within such areas as vehicle inspection, vehicle registration and driver licensing. However, where these areas provide funding for services such as driver improvement tasks administered by traffic courts, or where they furnish computer support for local government requests for traffic record searches, these expenditures are classifiable as benefitting local programs.

(d) Waivers. While the local participation requirement may be waived in whole or in part by the NHTSA Administrator, it is expected that each State program will generate political subdivision participation to the extent required by the Act so that requests for waivers will be minimized. Where a waiver is requested, however, it must be documented at least by a conclusive showing of the absence of legal authority over highway safety activities at the political subdivision levels of the State and must recommend the appropriate percentage participation to be applied in lieu of the local share.

#### APPENDIX F TO PART 1200—PLANNING AND ADMINISTRATION (P&A) COSTS

(a) Policy. Federal participation in P&A activities shall not exceed 50 percent of the total cost of such activities, or the applicable sliding scale rate in accordance with 23 U.S.C. 120. The Federal contribution for P&A activities shall not exceed 13 percent of the total funds the State receives under 23 U.S.C. 402. In accordance with 23 U.S.C. 120(i), the Federal share payable for projects in the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent. The Indian country, as defined by 23 U.S.C. 402(h), is exempt from these provisions. NHTSA funds

shall be used only to finance P&A activities attributable to NHTSA programs.

(b) Terms.

*Direct costs* are those costs identified specifically with a particular planning and administration activity or project. The salary of an accountant on the State Highway Safety Agency staff is an example of a direct cost attributable to P&A. The salary of a DWI (Driving While Intoxicated) enforcement officer is an example of direct cost attributable to a project.

*Indirect costs* are those costs (1) incurred for a common or joint purpose benefiting more than one cost objective within a governmental unit and (2) not readily assignable to the project specifically benefited. For example, centralized support services such as personnel, procurement, and budgeting would be indirect costs.

*Planning and administration (P&A) costs* are those direct and indirect costs that are attributable to the management of the Highway Safety Agency. Such costs could include salaries, related personnel benefits, travel expenses, and rental costs specific to the Highway Safety Agency.

*Program management costs* are those costs attributable to a program area (e.g., salary and travel expenses of an impaired driving program manager/coordinator of a State Highway Safety Agency).

(c) Procedures. (1) P&A activities 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. Federal participation shall not exceed 50 percent (or the applicable sliding

scale) of the total P&A costs. A State shall not use NHTSA funds to pay more than 50 percent of the P&A costs attributable to NHTSA programs. In addition, the Federal contribution for P&A activities shall not exceed 13 percent of the total funds in the State received under 23 U.S.C. 402 each fiscal year.

(2) A State at its option may allocate salary and related costs of State highway safety agency employees to one of the following:

(i) P&A;

(ii) Program management of one or more program areas contained in the HSP; or

(iii) Combination of P&A activities and the program management activities in one or more program areas.

(3) If an employee works solely performing P&A activities, the total salary and related costs may be programmed to P&A. If the employee works performing program management activities in one or more program areas, the total salary and related costs may be charged directly to the appropriate area(s). If an employee is working time on a combination of P&A and program management activities, the total salary and related costs may be charged to P&A and the appropriate program area(s) based on the actual time worked under each area(s). If the State Highway Safety Agency elects to allocate costs based on actual time spent on an activity, the State Highway Safety Agency must keep accurate time records showing the work activities for each employee. The State's recordkeeping system must be approved by the appropriate NHTSA Approving Official.