DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1300

[Docket No. NHTSA–2016–0057]

RIN 2127–AL71

Uniform Procedures for State Highway Safety Grant Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule makes changes and clarifications to the revised uniform procedures implementing State highway safety grant programs in response to comments received on the interim final rule published May 23, 2016.

DATES: This final rule is effective on February 26, 2018.

FOR FURTHER INFORMATION CONTACT:

For program issues: Barbara Sauers, Director, Office of Grants Management and Operations, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, Telephone number: (202) 366–0144; Email: *barbara.sauers@dot.gov.*

For legal issues: Jin H. Kim, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, Telephone number: (202) 366–1834; Email: *jin.kim@dot.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Summary of the Interim Final Rule
III. Public Comments on the Interim Final Rule
IV. General Provisions
V. Highway Safety Plan
VI. National Priority Safety Program and Racial Profiling Data Collection Grants
VII. Administration of Highway Safety Grants, Annual Reconciliation and Non-Compliance
VIII. Regulatory Analyses and Notices

I. Background

On December 4, 2015, the President signed into law the ''Fixing America's Surface Transportation Act'' (FAST Act), Public Law 114–94. The FAST Act amended NHTSA's highway safety grant program (23 U.S.C. 402 or Section 402) and the National Priority Safety Program grants (23 U.S.C. 405 or Section 405). Specifically, the FAST Act made limited administrative changes to the Section 402 grant program and made no changes to the contents of the Highway Safety Plan. The FAST Act made the following changes to the Section 405 grant program:

- Occupant Protection Grants—no substantive changes;
- State Traffic Safety Information System Improvements Grants—no substantive changes;
- Impaired Driving Countermeasures Grants—no substantive changes;
- Motorcyclist Safety Grants—no substantive changes;
- Alcohol-Ignition Interlock Law Grants—Added flexibility for States to qualify for grants (*e.g.,* permitted three exceptions);
- Distracted Driving Grants—Added flexibility for States to qualify for grants (*e.g.,* removed increased fines and created Special Distracted Driving grants);
- State Graduated Driver Licensing Incentive Grants—Added flexibility for States to qualify for grants (*e.g.,* reduced some driving restrictions and better aligned the compliance criteria);
- 24–7 Sobriety Programs Grants—Established a new grant;
- Nonmotorized Safety Grants—Established a new grant.

In addition, the FAST Act restored (with some changes) the racial profiling data collection grant authorized under the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users'' (SAFETEA–LU), Sec. 1906, Public Law 109–59 (Section 1906).

As in past authorizations, the FAST Act required NHTSA to implement the grants pursuant to rulemaking. To provide States with as much advance time as practicable to prepare grant applications and ensure the timely award of all grants, NHTSA published an interim final rule (IFR) that was effective immediately, but sought public comment to inform the promulgation of a final rule. This action addresses the comments received in response to the IFR.

II. Summary of the Interim Final Rule

The IFR implemented the provisions of the FAST Act, addressed comments on the predecessor rule implementing the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21), Public Law 112–141, and made several specific amendments to the Highway Safety Plan (HSP) contents to foster consistency across all States and facilitate the electronic submission of HSPs required under the FAST Act. (81 FR 32554, May 23, 2016.) The IFR set forth the application, approval, and administrative requirements for all 23 U.S.C. Chapter 4 grants and Section 1906 grants. While the MAP–21 rule established the beginnings of a single, consolidated application, the IFR more fully integrated the Section 402 and Section 405 programs, establishing the HSP as the State's single planning document accounting for all behavioral highway safety activities. The IFR clarified the HSP contents (highway safety planning process, performance measures and targets, and countermeasure strategies and projects), so that these already-existing elements could serve as a means to fulfill some of the application requirements for certain Section 405 grants, thereby reducing duplicative requirements in the grant applications. By creating links between the HSP content requirements provided in Section 402 and the Section 405 grant application requirements, the IFR streamlined the NHTSA grant application process and relieved some of the burdens and redundancies associated with the previous process.

The FAST Act amended Section 402 to require NHTSA to accommodate State submission of HSPs in electronic form. (23 U.S.C. 402(k)(3).) NHTSA has been working to implement this provision with the Grants Management Solutions Suite (GMSS), an enhanced electronic system that States will use to submit the HSP to apply for grants, receive grant funds, make HSP amendments throughout the fiscal year, manage grant funds, and invoice expenses. This electronic system will replace the Grants Tracking System that States currently use to receive funds and invoice expenses.

While the FAST Act did not make many substantive changes to the MAP–21 requirements, the IFR clarified parts of the HSP and required submission of certain project-level information. The IFR also codified the FAST Act requirement for a biennial automated traffic enforcement systems survey.

For Section 405 grants that were not substantively changed by the FAST Act (Occupant Protection Grants, State Traffic Safety Information System Improvements Grants, Impaired Driving Countermeasures Grants and Motorcyclist Safety Grants), NHTSA aligned and linked the application requirements with the HSP requirements under Section 402 to streamline and ease State burdens in applying for Section 402 and Section 405 grants. For Section 405 grants for which the FAST Act afforded additional flexibility (Alcohol-Ignition Interlock Law Grants, Distracted Driving Grants and State Graduated Driver Licensing Incentive Grants) and for the new grants under the FAST Act (24–7 Sobriety Program Grants, Nonmotorized Grants and Racial Profiling Data Collection Grants), the IFR adopted the statutory qualification language with limited changes.

The IFR made a few changes to the administrative provisions related to the highway safety programs, such as clarifying existing requirements, providing for improved accountability of Federal funds, and updating requirements based on changes in the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR part 200, and the Department of Transportation's implementing regulation at 2 CFR part 1201.

III. Public Comments on Interim Final Rule

In response to the IFR, the following submitted comments to the public docket on *www.regulations.gov*: Advocates for Highway & Auto Safety (Advocates); Association of Ignition Interlock Program Administrators (AIIPA); California Office of Traffic Safety (CA OTS); Commonwealth of the Northern Mariana Islands Department of Public Safety—Highway Safety Office (CNMI DPS); Colorado Highway Safety Office (CO HSO); Connecticut Highway Safety Office (CT HSO); Delaware Office of Highway Safety (DE OHS); Governors Highway Safety Association (GHSA); Guam Department of Public Works Office of Highway Safety (GU DPS); Intoximeters, Inc. (Intoximeters); Kentucky Office of Highway Safety; Maryland Department of Transportation (MD DOT); Michigan Office of Highway Safety Planning; Minnesota Department of Public Safety (MN DPS); Montana Department of Transportation (MT DOT); National Conference of State Legislatures (NCSL); National Safety Council (NSC); New York Governor's Traffic Safety Committee (NY GTSC); Ohio Highway Safety Office; Pennsylvania Highway Safety Office; Penny Corn (without affiliation); Rhode Island Office on Highway Safety; South Carolina Department of Public Safety—Office of Highway Safety and Justice Programs; Tennessee Highway Safety Office (TN HSO); Washington Traffic Safety Commission (WA TSC); Wyoming Department of Transportation (WY DOT); and joint submission by the Departments of Transportation of Idaho, Montana, North Dakota, South Dakota and Wyoming (5-State DOTs).[1] Six of these commenters (Kentucky Office of Highway Safety, Michigan Office of Highway Safety Planning, Ohio Highway Safety Office, Pennsylvania Highway Safety Office, Rhode Island Office on Highway Safety, South Carolina Department of Public Safety—Office of Highway Safety and Justice Programs) stated that they supported the GHSA comments without further explanation. Several other commenters, particularly State Highway Safety Offices (HSOs), also supported the comments from GHSA.

NHTSA received communications directly from other members of the public. (*See* letter from National Motorists Association (NMA); letter to Office of the Secretary docket from GHSA; joint letter from Coalition of Ignition Interlock Manufacturers and Intoximeters, Inc.; and email from Insurance Institute for Highway Safety.) Because of the substantive nature of these communications, NHTSA added them to the docket for this rule. GHSA asked to meet with NHTSA's Acting Deputy Administrator regarding the grant programs and, in an August 1, 2017 meeting, reiterated concerns raised in its earlier docketed comments. NHTSA added a summary of this meeting to the docket. Finally, on February 23 and April 27, 2017, NHTSA conducted two webinars in partnership with GHSA to provide guidance to States in preparing their fiscal year (FY) 2018 applications, as that application deadline came before this final rule could be issued. NHTSA added the slides from both webinars to the docket.

Many State HSOs identified various requirements in the IFR as burdensome. NHTSA has taken a fresh look at program requirements in light of these comments, as it was not our intent to impose undue burdens that would needlessly impede the hard work of traffic safety. In publishing the IFR, we strived to reduce burdens where possible, seeking to achieve an appropriate balance between the minimum information needed to ensure proper stewardship of funds and States' need for flexibility and efficiency in the use of their limited resources. In today's action, after careful review of these comments, we adopt some recommendations, clarify some requirements where we believe the concern about burdens was based on misunderstandings, and explain the importance of the requirement to safety objectives, statutory requirements, or accountability needs where we decline to adopt a comment.

In this preamble, NHTSA addresses all comments and identifies any changes made to the IFR's regulatory text. In addition, NHTSA makes several technical corrections to cross-references and other non-substantive editorial corrections. For ease of reference, the preamble identifies in parentheses within each subheading and at appropriate places in the explanatory paragraphs the CFR citation for the corresponding regulatory text.

IV. General Provisions (Subpart A)

A. Agency's Authority To Implement Through Rulemaking

A number of commenters stated that additional requirements in the IFR were not required by the FAST Act, and therefore NHTSA did not have authority to make these changes. (*See, e.g.,* DE OHS, GHSA, MT DOT, NCSL, WY DOT, 5-State DOTs.) In fact, the FAST Act (and previous authorizations, by longstanding Congressional practice) required NHTSA to award grants in accordance with regulation, expressing Congress' intent that the details of the grant programs be fleshed out in an implementing rule. The requirements in the IFR (and in this final rule) are within the scope of the FAST Act and in keeping with NHTSA's statutory authority to oversee and implement a Federal grant program.

B. Definitions (23 CFR 1300.3)

CA OTS, CT HSO, GHSA, GU OHS and WA TSC commented about the definition of countermeasure strategy. These commenters asserted that the definition appears to limit the States' ability to use grant funds on innovative safety efforts, and recommended allowing flexibility for innovative countermeasures that were well-reasoned. Most of these commenters asked NHTSA to clarify that the definition allows this flexibility, and GHSA suggested adding a separate definition of ''innovative countermeasure strategies'' for the same reason.

NHTSA agrees with the commenters, and is amending the definition of countermeasure strategy to ''a proven effective *or innovative* countermeasure proposed or implemented with grant funds under 23 U.S.C. Chapter 4 and Section 1906 to address identified problems and meet performance targets.'' (Emphasis added.) It was not our intent to discourage the use of innovative countermeasures, and we noted that point in the preamble to the IFR. We repeat here that innovative countermeasures that may not be fully proven but show promise based on limited practical application are encouraged when a clear data-driven safety need has been identified. With this change in the definition of countermeasure strategy, we are codifying the understanding that innovative countermeasures are acceptable grant activities (without the need for a separate definition of

[1] NHTSA also received a comment from ''Harley Anonymous'' stating that State highway safety grant programs should allow for our highways to be better maintained. Because this comment is outside the scope of the rulemaking, we do not address it here.

''innovative countermeasure strategies''), provided that the innovative countermeasure strategies are justified in accordance with § 1300.11(d)(4).

V. Highway Safety Plan (Subpart B)

A. General

Many commenters were concerned about administrative burdens, including some that were described as duplicative entries in the grant application process. (*See, e.g.,* CA OTS, GU OHS, KY OHS, MD HSO, MN OTS, MT DOT, NCSL, PA HSO, TN HSO, WA TSC, WY DOT.) NHTSA addresses specific concerns about the elements of the HSP under the appropriate heading later. However, NHTSA notes that as a general approach to reducing burdens, we are implementing GMSS, an enhanced administrative and financial electronic system that States will use to submit the HSP, apply for grants, receive grant funds, make HSP amendments, manage grant funds, and invoice expenses. This electronic system will replace the Grants Tracking System currently in use. In the course of preparing this final rule, NHTSA has been mindful of this soon-to-be-deployed new system, so that GMSS will align directly with applicable program requirements. For example, we plan for each discrete field within GMSS to be tied to a specific requirement in the regulation, and are methodically cross-walking and integrating all requirements. NHTSA expects that the new electronic application process will reduce uncertainty among States as to what level of information is required to satisfy application criteria. We believe that GMSS will streamline and simplify the application process, decrease the size of HSPs by eliminating content unnecessary to satisfy 23 CFR part 1300 requirements, and reduce duplicative entries related to grants.

B. Highway Safety Plan Contents

1. Performance Report (23 CFR 1300.11(b))

GHSA commented that ''[e]xpansion of Section 1300.11(b) [requiring a performance report] was not mandated by the FAST Act. This is an enhanced requirement that requires details that are more appropriate for the annual report. At the time the HSP would be submitted, a state may not have a full analysis of the reasons a performance target was missed during the previous year.'' CA OTS, DE OHS, GU OHS, and MD HSO agreed that such information is not available at the time of HSP submission, and some of these commenters suggested including this information in the annual report instead.

The Federal statute does, in fact, require that the HSP contents include ''for the fiscal year preceding the fiscal year to which the plan applies, a report on the State's success in meeting State safety goals and performance targets set forth in the previous year's highway safety plan.'' (23 U.S.C. 402(k)(4)(E).) This language, originally included in MAP–21, is continued without change by the FAST Act. To implement this statutory requirement, the IFR specified ''[a] program-area-level report on the State's progress towards meeting State performance targets from the previous fiscal year's HSP.'' The IFR also required a description of how the State will adjust its upcoming HSP to better meet performance targets, in cases where it has not met those targets.

NHTSA understands that FARS data for the previous year's HSP targets may not be available to assist in the required evaluation at the time of HSP submission, as some commenters have asserted. However, as we noted in the preamble to the IFR, NHTSA is simply requiring States to submit a high-level review of their progress in meeting performance targets to satisfy the statutory requirement, and States should provide a qualitative description of that progress when FARS data are not yet available. We further clarified during webinars that the performance report in § 1300.11(b) is an in-process program area assessment of the State's progress toward meeting performance targets identified in the preceding year's HSP, and that States may use their own more current data (in lieu of FARS data) to fulfill the requirements of § 1300.11(b). NHTSA encourages States to use additional non-fatality data sources and information to assess progress toward meeting previously established performance targets. This general level of information is not unduly burdensome, is specifically called for by the Federal statute, and is critical to the successful development of the HSP itself.

However, NHTSA agrees with commenters that the description of how the State will adjust its upcoming HSP to better meet targets that were missed is best provided in the annual report. Consequently, we are deleting the requirement to document it in the HSP at the time of submission and adding the requirement to include it as part of the annual report. (*See* § 1300.35(a).) Nevertheless, States should continuously evaluate their HSPs and change them as appropriate to meet the goal of saving lives and preventing injuries.

2. Performance Plan (23 CFR 1300.11(c))

Beginning with FY 2018 HSPs, the IFR required States to submit targets using a five-year rolling average for three performance measures common to both NHTSA and FHWA (total fatalities, serious injuries and fatality rates) and to identify identical performance targets for these common performance measures. DE OHS agreed in principle with standardizing these performance measures, but worried (in connection with the five-year rolling average) that ''the unintended consequence is constantly creating a moving target'' with likely further target changes. GHSA asserted that the common performance measures with FHWA use different baseline-setting methods, making it impossible for the SHSP, HSP and HSIP to be completely aligned on performance.

NHTSA agrees with the concerns of these commenters. In today's action, we are removing the requirement for States to provide documentation of current safety levels (baselines) for common performance measures in the HSP. NHTSA believes that this requirement caused confusion between NHTSA's and FHWA's performance measure baseline requirements and distracted some States from fully linking performance targets to activities.[2] States will continue to report identical targets for common performance measures, consistent with FHWA's rulemaking on performance measures[3] and NHTSA's regulation. In this context, States do not necessarily use baselines to set performance targets. Rather, baselines provide a point of reference regarding a State's performance target. States should review data sets and trends and consider a variety of internal and external factors (such as vehicle miles traveled, State laws, and investments) in setting their targets. Targets should be data-driven, realistic, and attainable, and they should guide program investments. The elimination of the requirement for documentation of current safety levels in the performance plan should alleviate the concerns of these commenters. The final rule continues the requirement for States to provide a description and analysis of

[2] Under FHWA's regulation, a State is determined to meet or make significant progress toward its targets when targets are actually met or the outcome is better than the State's baseline safety performance. At the time of HSP submission, FARS data are not available for the final year of the baseline period, but it is required under FHWA's regulation. Therefore, States were required to use different FARS data in their HSP than in their HSIP.

[3] National Performance Management Measures: Highway Safety Improvement Program, 81 FR 13882, Mar. 15, 2016.

their overall highway safety problems in the highway safety planning process section. (*See* § 1300.11(a).)

An individual commenter stated that more guidance is needed for an evidence-based performance plan, and questioned the need to cross-reference that plan in the HSP and in applicable Section 405 grant applications. Sample evidence-based performance plans are not available as guidance because such plans are inherently State-specific. However, Regional Offices are available to provide technical assistance to State HSOs in this area. As we noted in the IFR, MAP–21 and the FAST Act created greater linkages between the HSP and Section 405 grants. Allowing States to cross-reference planned activities already described in the HSP to apply for Section 405 grants, in lieu of requiring them to separately describe them again, is intended to alleviate the burden of separate (and, in some cases, redundant) application requirements, by creating a fully integrated single application for highway safety grants. (*See* discussion in Section V.B.3.) NHTSA declines to make changes to the rule in response to this comment.

NMA commented that the highway safety programs should be evaluated with safety performance metrics, not activity-based goals such as ticket quotas. NMA suggested that existing grants focus on enhancing driver education programs, encourage advanced driver skills for training novice drivers, and require States to reevaluate and optimize posted highway speed limits.[4] The Federal statute requires States to engage in ''sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits'' as a condition of receiving Section 402 funds. (23 U.S.C. 402(b).) The Federal statute further requires that HSPs be based on performance measures developed by NHTSA and GHSA in the report ''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025). (*See* 23 U.S.C. 402(k).) That report includes activity measures related to seat belt citations, impaired driving arrests and speeding citations. Finally, the Federal statute requires NHTSA to implement and the States to participate in not less than three national high-visibility enforcement campaigns every year related to impaired driving and occupant protection. (*See* 23 U.S.C. 402(b); 23 U.S.C. 404.) NHTSA may not waive these statutory requirements. Moreover, decades of research demonstrate that one of the most effective highway safety programs is high-visibility enforcement, which combines public outreach and education with focused enforcement of traffic safety laws, such as laws requiring seat belt use or prohibiting drunk driving. NHTSA notes that States are not required to submit a target for citations and arrests in the HSP, and in fact, no State submitted a target for violations and arrests in its grant applications. NHTSA makes no change to rule in response to this comment.

3. Highway Safety Program Area Problem Identification, Countermeasure Strategies, Planned Activities and Funding (23 CFR 1300.11(d))

The IFR provided that for each countermeasure strategy, the HSP must include project-level information, including identification of project name and description, subrecipient/contractor, funding sources, funding amounts, amount for match, indirect cost, local benefit and maintenance of effort (as applicable), project number, and funding code. NHTSA received the most comments regarding this requirement. (*See, e.g.,* CA OTS, CT HSO, DE OHS, GHSA, GU OHS, MD HSO, MN OTS, MT DOT, NY GTSC, TN HSO, WY DOT, 5-State DOTs.) Commenters stated that the request for detailed project information was a significant and burdensome change.[5] They noted that the HSP is a planning document for the upcoming year that is produced months in advance, when States have clarity on general program direction but not on project details because States have not yet negotiated with subrecipients on grant proposals. They stated that imposing this level of detail would require substantial updates and revisions to the HSP as information changes after initial HSP development.

NHTSA appreciates this feedback. We understand the commenters' point that, at the time of HSP submission, States may not have information about the discrete projects that are to be placed under agreement, as project negotiations may still be unfolding and may even continue throughout the grant year. In response to these concerns, NHTSA is making changes in the level of detail required to be reported about projects at the HSP submission stage. Today's action changes the granularity of reporting, by clarifying that States are not expected to identify discrete formalized projects with executed agreements at the time of HSP submission.[6] Consistent with that approach, NHTSA is reducing the items required to be reported under § 1300.11(d)(2), as further described below.

However, NHTSA is not removing in its entirety the requirement to provide, at the HSP submission stage, details about activities the State is planning to undertake. In view of the recent Federal statutory change introducing a performance-measures-driven process,[7] States *do* need to identify their planned activities (*i.e.*, types of projects they plan to conduct) in sufficient detail in the HSP to show how they plan to meet their performance targets. The broad program-level descriptions contained in HSPs submitted in earlier years under different Federal authorizing legislation do not provide sufficient information to determine whether a State's chosen performance targets are reasonable and data-driven. Of equal importance, the IFR's streamlined approach of allowing States to point to activities already identified in the HSP to satisfy Section 405 grant application requirements would be undermined if insufficient detail is provided in the HSP, jeopardizing a State's qualification for those grants. Therefore, NHTSA is retaining the requirement for States to provide, at the time of HSP submission, a robust description of their *planned activities,* and within those planned activities to identify the Federal funding source (*i.e.*, Section 402, 405, 1906), eligible use of funds (formerly referred to as program funding code), intended subrecipients, and at the aggregate level, good faith estimates of funding amount, match, and local benefit. NHTSA is deleting the requirement for States to report maintenance of effort, indirect cost, and project number. This level of detail is the minimum necessary to adequately convey the State's plans and priorities for distribution of grant funds and to support the submission requirements aligning Section 405 grant applications with the HSP contents. NHTSA is confident that this more generalized level of information is readily available to a State by the time of HSP submission, in the exercise of successful planning. In today's action,

[4] NMA also recommended using grant funds for infrastructure improvements to improve highway safety. We do not address this comment as the Federal statute does not permit NHTSA grant funds to be used for road construction projects.

[5] For example, MN OTS stated that reporting details at the subrecipient level for each project will greatly increase the amount of work.

[6] However, States will be required to report discrete project-level information as project agreements are executed during the grant year, as such information is necessary for adequate tracking of expenditures and therefore a precondition for payment. These requirements are discussed later, under the sections for amendments to the HSP (§ 1300.32) and vouchers (§ 1300.33).

[7] The Federal requirement for performance measures applied to State Highway Safety Plans beginning in FY 2014 under MAP–21.

NHTSA amends § 1300.11(d)(2) accordingly to reflect these changes and is also making corresponding changes to the level of information required in § 1300.11(e) Teen Traffic Safety Program.[8] NHTSA is making conforming amendments throughout part 1300, including the definition of Highway Safety Plan, the definition of project, and the application requirements for Section 405 and Section 1906 grants, to reflect this understanding that States will provide information about ''planned activities'' (rather than specific projects) at the time of HSP submission. Later in this preamble, NHTSA explains that States must amend their HSPs to include specific information about project agreements. (*See* § 1300.32.)

As an illustration of this process, NHTSA provides the following example. If a State's problem analysis shows an overrepresentation of unrestrained passenger vehicle occupant fatalities in the mostly rural southeastern corridor of the State, and the State has chosen high-visibility enforcement of its occupant protection laws as a countermeasure strategy, the State need not identify discrete projects under agreement with every law enforcement agency to which grant funds are to be offered. Rather, the State must generally describe the planned activities (*e.g.*, intent to fund overtime law enforcement of occupant protection laws in the 10 local jurisdictions surrounding X city that show the lowest percent of occupant protection restraints, based on State data), and provide the required aggregate estimates.[9] The State must provide a robust description of the types of projects it intends to enter into, demonstrating support for the chosen countermeasure strategy and evidence that it relates to the State's problem identification, which will in turn help the State meet its performance target. Following HSP approval, States are expected to develop specific project agreements fitting within the general description of these planned activities, and these project agreements will be reported as HSP amendments and form the basis for the payment of vouchers. (*See* §§ 1300.32 and 1300.33.) Given the annual nature of the HSP, States should develop and enter into project agreements early in the grant year so that they have sufficient time to execute projects to meet their annual performance targets.

DE OHS stated that it was an unnecessary administrative burden to require data analysis to support the effectiveness of already proven countermeasures in § 1300.11(d)(3). The Federal statute requires ''data and data analysis supporting the effectiveness of proposed countermeasures.'' (23 U.S.C. 402(k)(4)(C).) NHTSA agrees that the effectiveness of proven countermeasures is already known, that data and data analysis are well-established for these countermeasures, and that further information is unnecessary in these cases. Therefore, NHTSA is removing this requirement for proven countermeasures, and requiring only that States explain their rationale for selecting the countermeasure and allocating grant funds. States must, however, include additional justification for innovative countermeasures, as provided in § 1300.11(d)(4), such as research, evaluation and/or substantive anecdotal evidence to demonstrate their potential. NHTSA is changing the rule accordingly.

CA OTS, GHSA and GU OHS commented that the IFR expanded on the requirements for a traffic safety enforcement program (TSEP). The IFR set forth the requirement for an evidence-based traffic safety enforcement program (TSEP) by allowing States to cross-reference projects in the HSP that collectively constitute the State's data-driven and evidence-based TSEP. This was a change from the previous requirement for a narrative description of the TSEP in the HSP. In the IFR, NHTSA explained that allowing States to cross-reference projects already identified under countermeasure strategies was intended to alleviate the burden of duplicative entries.

As noted earlier, the Federal statute requires that States maintain activities for ''*sustained* enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits.'' (23 U.S.C. 402(b) (emphasis added).) Many activities a State conducts with Federal funds include traffic safety enforcement, and the category of the subrecipient is generally finite and known (*i.e.*, law enforcement agencies). These same activities also form the basis of various Section 405 requirements (*e.g.*, occupant protection plan, seat belt enforcement criteria, high risk population countermeasure programs criteria, impaired driving plan). The IFR allowed States to point to these projects in the TSEP to support other parts of their applications, thereby reducing duplicative data entry. However, with the revision noted earlier (from projects to planned activities), NHTSA believes that the burden will be reduced. NHTSA also expects that the implementation of GMSS will further reduce the burden by allowing States to link planned activities that constitute the TSEP.

CA OTS, GHSA and GU OHS stated that requiring States to continually adjust plans to update TSEP activities is burdensome. The IFR required States to describe how they plan to ''monitor the effectiveness of enforcement activities, make ongoing adjustments *as warranted by data,* and update the countermeasure strategies and projects in the HSP, *as applicable*.'' (emphasis added.) This IFR provision did not require the State to continually adjust TSEP activities, but only *as warranted by data.* As a general matter, NHTSA does not expect that States will need to adjust TSEP activities continuously in an annual HSP. However, the HSP is not a static plan, and States should be prepared to address highway safety problems as the need arises.[10] NHTSA declines to amend this requirement.

MN OTS asked whether areas ''most at risk'' in the TSEP were defined by absolute numbers of fatalities or by over-representation in fatality rates. NHTSA defers to the States to make this determination as part of their problem identification process. Generally, States rely on a variety of data sources, including State-specific data, for problem identification. Whatever the source, the State's process for problem identification must be documented in the HSP pursuant to § 1300.11. NHTSA encourages States to seek technical guidance from Regional Offices for questions regarding this requirement. Accordingly, NHTSA makes no changes to the rule in response to this comment.

The IFR continued the statutory requirement that States provide assurances that they will implement activities in support of national high-visibility law enforcement mobilizations coordinated by the Secretary of Transportation. (*See* 23 U.S.C. 402(b).) In addition to providing such assurances, States must describe in their HSP the planned high-visibility enforcement strategies to support national mobilizations for the upcoming grant year and provide information on those activities. CA OTS, GHSA, GU OHS and MN OTS commented about the requirement in § 1300.11(d)(6) to submit information regarding mobilization participation. These

[8] In striking this balance to reduce burdens at the application stage, NHTSA is mindful that many other Federal grant programs require up-front details of specific project agreements.

[9] States are to provide good faith estimates of funding amount, match, and local benefit at the planned activities. (*See* § 1300.11(d)(2).)

[10] However, States will need to amend their HSP when they execute or change a project agreement.

commenters stated that specific metrics from high-visibility enforcement campaigns are not available at the time of HSP development and should be eliminated from the HSP application requirement. In the April 27, 2017 webinar, NHTSA explained that we were seeking data from prior year mobilizations to support the State's planned participation in upcoming national campaigns. However, in response to these comments, NHTSA is deleting the requirement to provide these metrics in the HSP submission. Because we believe that such metrics contain information that is important for evaluating a State's participation in the national campaigns, we are moving this requirement to the annual report in § 1300.35. This will lessen the up-front burden, while still generating data that is important to highway safety planning.

WA TSC commented that many local agencies voiced concern that the dates of the mobilizations were not relevant to their jurisdictions, but that funds were needed at large local events and activities. The Federal statute requires NHTSA to conduct three national campaigns and States to participate in these national campaigns. (*See* 23 U.S.C. 402(b); 23 U.S.C. 404.) NHTSA understands that the dates for these three campaigns may not be of similar relevance for every local jurisdiction across the nation. However, State HSOs may use Federal funds to support local events and activities in addition to participating in the national events at other times of the year. NHTSA supports the use of Federal funds on high-visibility enforcement, which is one of the most effective countermeasure strategies. No changes to the rule are made in response to this comment.

4. Certifications and Assurances (23 CFR 1300.11(g); Appendix A)

Each fiscal year, the Governor's Representative (GR) for Highway Safety must sign the Certifications and Assurances (C & A) set forth in Appendix A to Part 1300, affirming that the State 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 provisions in the C & A.

GHSA and the NY GTSC expressed concern about the revised nondiscrimination provisions in the C & A. GHSA suggested that these revised provisions, such as the requirement that States include specific nondiscrimination language in every contract and funding agreement, exceed current Federal and State [11] requirements. GHSA asked NHTSA to explain and justify these changes, which the NY GTSC characterized as burdensome.

NHTSA modified the language in the C & A's nondiscrimination provisions to ensure that NHTSA grantees understand the full scope of responsibilities required of a U.S. Department of Transportation (DOT) grantee in order to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), as implemented by DOT's Title VI regulation, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (49 CFR part 21). These revisions did not expand or otherwise change the legal obligations that have always applied to NHTSA grantees under Title VI and DOT's regulation, including the flow-down requirement for States to insert non-discrimination language in their funding agreements—they simply clarify those obligations.

The IFR provided NHTSA with an opportunity to update the assurance language to better detail existing requirements in DOT's Title VI regulation and Order. Compliance with these well-established Title VI requirements is a precondition of receiving a grant. It is a universal Federal requirement, and not a likely source of undue burden on State funding recipients, which for decades have included similar assurance language covering a wide range of ''flow down'' obligations under other Federal laws in their Federally assisted agreements (*e.g.,* Buy America Act, Hatch Act, the Anti-Lobbying Act, Debarment and Suspension Requirements). NHTSA declines to amend the rule in response to these comments.

In this final rule, NHTSA is also providing a general update to the certification regarding suspension and debarment. The purpose of the update is to use terms such as ''primary tier'' that are consistent with the suspension and debarment regulation at 2 CFR part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement); to make clear the existing responsibilities of Federal grantees to ensure that its principals are not suspended, debarred or otherwise ineligible to participate in covered transactions such as grants; and to provide the current web address where suspension and debarment information is available. The update does not create new substantive requirements for grantees.

Finally, NHTSA is amending the C & A regarding seat belt use policy as the information referenced in the C & A, such as Buckle Up America, is no longer available on NHTSA's website. This, too, is a non-substantive change.

C. Special Funding Conditions for Section 402 Grants (23 CFR 1300.13)

CA OTS and GHSA asserted that State HSOs would need additional Federal funding to modify existing electronic grant systems and increased personnel to track and verify maintenance of effort at the project level. NHTSA understands that State HSOs may need additional resources to modify their electronic grant systems and to handle administrative tasks related to the vouchering process. In response to these concerns, NHTSA is increasing the percentage States may use for Planning and Administration (P & A) activities from 13 percent to 15 percent in the final rule.[12] (*See* § 1300.13(a)(1) and Appendix D.) NHTSA encourages States to use the additional P & A funding to update their electronic systems, as necessary, to work with GMSS. Such updates can be expected to further reduce burdens on States.

The FAST Act added a requirement that States that have installed automated traffic enforcement systems must conduct and submit to NHTSA a biennial survey, which must then be made available on a website of the Department of Transportation. NHTSA codified this statutory requirement in the IFR. NHTSA received comments from CA OTS, CO DOT, DE OHS, GHSA, GU OHS, MD HSO, NY GTSC, TN HSO and WA TSC that this requirement was too burdensome and that NHTSA should provide guidance to make it less burdensome. MD HSO requested a specific survey form to provide uniform data across States. GHSA noted that as currently provided, States will need to include lists of and information on all systems in the State. GHSA also asked for ''the specific definition of 'automated traffic enforcement systems'.'' [13]

[11] Note that State law requirements are not relevant to the legal obligations created under Title VI.

[12] The 50 percent match requirement will continue to apply to all P & A expenses, in accordance with Appendix D.

[13] GHSA asked other questions, such as which details would need to be provided in the list, whether the systems must be listed by intersection or would the number of units in a political subdivision be sufficient, what data points would be required to account for transparency, accountability and safety, what points should be included in the required comparison of systems to

Continued

The FAST Act defines ''automated traffic enforcement system'' as ''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.'' (23 U.S.C. 402(c)(4)(B).) This statutory definition is clear and unambiguous and does not require further interpretation. Accordingly, NHTSA makes no changes to the rule in response to this comment.

In response to the other questions from GHSA about what to report and concerns from commenters that the requirement is too burdensome, NHTSA notes that the FAST Act identifies with specificity the contents of the survey [14] and that Congress has directed States with automated traffic enforcement systems to provide this information. Accordingly, in the final rule, NHTSA adopts the statutory language without change.

D. Review and Approval Procedures (23 CFR 1300.14)

The IFR continued the language from the MAP–21 rule that States must respond ''promptly'' to NHTSA's questions about State grant applications. NHTSA received comments from CA OTS, CNMI DPS–HSO, GHSA, GU OHS and an individual commenter that the word ''promptly'' was ambiguous and a more definitive time frame was needed. Since the inception of the statutory requirement for a single application process for FY 2014 applications, NHTSA's practice has been to seek clarifying information from States regarding their application, when necessary,[15] to provide the greatest opportunity for States to qualify for grants. With the new FAST Act requirement reducing the time for HSP approval from 60 days to 45 days, the amount of time NHTSA can provide States to respond to clarifying questions has been significantly reduced.

The questions NHTSA asks vary from program to program and from State to State, with some questions requiring more comprehensive responses and others requiring simple responses. In seeking clarifying information from States, NHTSA strives to provide as much time as possible for States to respond to the questions. As these are formula grant programs, award determinations and funding distribution amounts for each of the grant programs cannot be made until all issues are resolved. NHTSA believes that it is unfair to delay these determinations, affecting *all* States, due to unresolved issues in some States, and especially in view of the new 45-day statutory review deadline. For this reason, we ask all States to take special care in their applications to minimize the need for clarification, and to respond ''promptly'' to any request for clarifying information. In individual requests, NHTSA provides a deadline for States to respond depending on the complexity of the question and the time remaining to complete application review. NHTSA declines to amend the regulation to provide a specific timeframe, as this would reduce flexibility, and might compromise a State's opportunity to demonstrate compliance.

VI. National Priority Safety Program and Racial Profiling Data Collection Grants (Subpart C)

Advocates stated that some of the changes to the highway safety grant program requirements were excessively lenient and weakened the program by allowing States to qualify with sub-optimal provisions and laws. As Advocates did not specifically identify which provisions it believed were sub-optimal, NHTSA is unable to address the comment. We note, however, that in the case of law-based grants (*e.g.,* ignition interlock, distracted driving, graduated driver licensing), NHTSA's implementation was strictly in accordance with the Federal statute. Where the Federal statute permitted leniency (*e.g.,* secondary enforcement for special distracted driving grants in FY 2017), NHTSA implemented that provision without change.

In the IFR, NHTSA included Appendix B as the required application format for National Priority Safety Program Grants and Racial Profiling Data Collection grants. NHTSA expects to implement GMSS before FY 2019 applications are due. Parts 1 through 10 of Appendix B—Application Requirements for Section 405 and 1906 Grants will be systematically captured and organized within GMSS. However, under the GMSS process, States will still be required to upload a signed copy of Appendix B, certifying that the GR has reviewed the information submitted within GMSS in support of the State's application for 23 U.S.C. 405 and Section 1906 grants and that funds will be used in accordance with statutory requirements. In the final rule, NHTSA is also correcting language in Appendix B to mirror the regulatory text.

A. Maintenance of Effort (23 CFR 1300.21, 1300.22 and 1300.23)

Under the FAST Act, in order to receive a grant for occupant protection programs, impaired driving programs and traffic safety information system improvement programs, States are required to provide a certification that the lead State agency is maintaining its aggregate expenditures for those programs at or above the average level of such expenditures in FY 2014 and FY 2015—the ''maintenance of effort'' (MOE) requirement. This is a statutory change from the earlier requirement to maintain such expenditures from ''all State and local sources.'' As a result of the FAST Act change, States no longer have to certify that they are maintaining these expenditures across all State agencies and at the local level, a significant reduction in administrative burden. Instead, the FAST Act limits the inquiry and certification to expenditures by the ''lead State agency.'' The IFR implemented this revised certification requirement without change.

CA OTS, CNMI DPS, GHSA, and GU OHS submitted similar comments requesting that NHTSA define the term ''lead State agency'' as the HSO in each State. NHTSA declines to do so, as this would be inconsistent with the Federal statute. The FAST Act requires States to certify that ''the lead State agency responsible for programs described in [sections identifying the relevant Federal grants] is maintaining aggregate expenditures at or above the average level of such expenditures in the 2 fiscal years prior to the date of enactment of the FAST Act.'' (23 U.S.C. 405(a)(9).)

This language does not provide NHTSA with authority to specify the lead State agency, nor is NHTSA well-situated to do so. Designating one common agency in all States as the lead State agency ignores the diverse subject areas involved and the likeliness that States assign responsibility and expenditure authority for those many areas in different ways, depending on

DOT guidelines, what if the information such as that from a local unit of government is not made available to the SHSO, and how should mobile systems be evaluated?

[14] Specifically, the survey must include a list of automated traffic enforcement systems in the State; adequate data to measure the transparency, accountability, and safety attributes of each automated traffic enforcement system; and a comparison of each automated traffic enforcement system with Speed Enforcement Camera Systems Operational guidelines (DOT HS 810 916, March 2008); and Red Light Camera Systems Operational Guidelines (FHWA–SA–06–002, January 2005).

[15] For example, clarifying or additional information is necessary to assist in determining compliance when a State has submitted an incomplete grant application, an incorrect or incomplete citation to its qualifying State laws, or failed to make a required certification. In connection with FY 2018 applications, NHTSA asked more than 250 questions from States before NHTSA could complete application reviews and grant determinations.

State government structures or State laws and procedures. As a related point, NHTSA is aware that some State HSOs are funded exclusively with Federal grant funds, and in such cases, would not make any ''aggregate expenditures'' of State funds in the identified covered areas—such HSOs could not reasonably be identified as the lead State agency without rendering the FAST Act MOE requirement meaningless. The statute does not support the restrictive approach being sought by these commenters, and NHTSA declines to remove the responsibility for this determination from the State, where it properly resides. More specifically, each State must select the lead State agencies and provide the required certifications. NHTSA makes no changes to the process identified in the IFR.

GHSA asserted that NHTSA ''arbitrarily limited states to one designation [of lead State agency] until the next reauthorization.'' While it is true that the IFR does not contemplate a change in lead State agency designation, that result is dictated by the Federal statute, which specifies a fixed baseline for maintenance of effort calculations, determined on the basis of expenditures in the two fiscal years prior to the date of enactment of the FAST Act. Once identified, this baseline is not subject to change, and NHTSA does not have the authority under the statute to allow another approach.[16]

MN OTS and an individual commenter requested assistance in understanding how to apply the term ''lead State agency.'' GHSA quoted FAST Act conference report language stating the intent to provide ''additional flexibility to allow states to certify compliance with maintenance of effort requirements. Therefore, the conferees expect that NHTSA should reasonably defer to state interpretations and analyses that underpin such certifications.''

As guidance in applying the lead State agency to the MOE requirement, NHTSA points to the April 27, 2017 webinar, during which we identified three factors that a State should consider in selecting lead State agencies. In an ideal process, a State would make an assessment and selection based on the following criteria: State expenditures (the State agency that spends the most State funding in the program area); program involvement (the State agency that participates in significant decisions affecting the program area); and overall leadership (the State agency that exhibits the most control or authority over the program area either as directed in law or by determination of senior government officials (e.g., the Governor)). Consistent with the statement of the conferees, NHTSA will defer to a State's reasonable determination of lead State agencies regardless of the documented criteria used. A GR using the criteria identified here to document the choice would ensure that a reasonable selection has been made.

As a steward of Federal funds, NHTSA has a continuing responsibility to ensure that States meet grant requirements, including the reduced but still-existing MOE requirements under the FAST Act. NHTSA wants to assist States in meeting these requirements up front to avoid potential repayment issues later. Under FAST Act requirements, States are responsible for identifying lead State agencies for the covered areas, for performing the necessary baseline calculations to identify the level of State expenditures that must be maintained during the grant year, and for monitoring activities to ensure that lead State agencies maintain required expenditures. Therefore, while NHTSA will accept an executed certification submitted in the application process, States should retain adequate documentation of their process for audit and oversight purposes and make the documentation available to Regional Administrators upon request.

An individual commenter requested confirmation that fiscal years 2014 and 2015 would continue to be used as the baseline years in MOE determinations under the FAST Act. The baseline years—the years used to determine the average level of expenditures in each program area—are specified in the Federal statute as the two fiscal years prior to the date of enactment of the FAST Act, which occurred in fiscal year 2016. Accordingly, NHTSA confirms that fiscal years 2014 and 2015 will be used as the baseline for determining maintenance of effort compliance.

B. Occupant Protection Grants (23 CFR 1300.21)

1. Child Restraint Inspection Stations (23 CFR 1300.21(d)(3))

The FAST Act continued the MAP–21 requirement that States have ''an active network of child restraint inspection stations.'' In the IFR, NHTSA was guided by earlier State concerns that submission of comprehensive lists of child restraint inspection stations was burdensome and unnecessary. NHTSA's intent in the IFR was to achieve a balance between burdens and the need to ensure that inspection stations and events were addressing populations where occupant protection issues persist, such as those in rural areas and at-risk groups. Therefore, the IFR directed the States to include a table in their HSP identifying where inspection stations are located, what population groups they serve—urban, rural, or at-risk, and certifying that they will be staffed with nationally certified child passenger safety (CPS) technicians.

Some commenters asserted that NHTSA's changes were burdensome and that States would have difficulty including the table with the required information. CA OTS, GHSA, GU DPS and MN DPS asserted that States would be unable to provide complete demographic information on the populations served or to certify to CPS technician staffing for all inspection stations and events throughout the State. According to these commenters, some of these stations and events are activities that do not involve the State HSO, and therefore, the State does not have adequate information about participation, staffing and timing. These commenters propose that NHTSA require States to list and certify only to inspection stations and events for which States have grant activity.

MN DPS asked how it would be expected to define which events serve rural, urban, or at-risk populations, as the State would not ask participants about income or racial background or support organizations that asked such questions. GHSA indicated that the IFR preamble provides that States must indicate where stations and events are located, but that the regulatory text and Appendix B specify that the table need only provide the total number of stations/events and the total number that serve rural and urban areas and high risk populations. GHSA proposes that NHTSA follow the regulatory text, with States listing only summary total numbers.

NHTSA does not require States to report child restraint activities unrelated to their grants and sponsored activities. However, States must be able to demonstrate an ''active network''. To do so, States may provide the required information and certification for inspection stations and events that they sponsor or support and/or provide such information for non-State sponsored or supported activities, as necessary, to demonstrate an active network of child restraint inspection stations or events.

[16] NHTSA recognizes that a State may on occasion reorganize governmental units, which could result in a fundamental shifting of roles and responsibilities for various programs. While such a State may identify a different lead State agency going forward, the statutorily specified baseline will remain the same as first reported. Absent a shift in roles and responsibilities, NHTSA expects that States will not change their lead State agency designations.

In either case, the State must certify that these inspection stations and events are staffed with at least one nationally certified CPS technician. NHTSA also clarifies that it is not requesting detailed demographic information for each inspection station—just the State's problem-identification-driven determination of the population intended to be served—and there is no expectation that attendees would be surveyed for demographic details.

NHTSA is amending the IFR to clarify the level of information to be provided. Under the final rule, a State must identify in the HSP countermeasure strategies and planned activities demonstrating an active network of child passenger safety inspection stations and/or inspection events based on the State's problem identification. As part of the State's problem identification process, the description should also include information on the geographic problem areas in the State where the countermeasure strategies and activities are planned, but does not require the State to identify the location of each inspection station or event. At a minimum, the countermeasure strategies and planned activities must include *estimates* for: (1) The total number of planned inspection stations and events during the grant year; and (2) within that total, the number of planned stations and events serving each of the following population categories: Urban, rural, and at-risk. Where at-risk is specified, States must further specify the *particular* at-risk populations (*e.g.,* low-income, ethnic minority). These requirements are necessary to ensure that States submit sufficient detail about planned activities to demonstrate a program that is based on problem identification. A single numeric total for inspection stations, without information on general location or population served, does not provide evidence that States are addressing the emerging areas that they, themselves, have identified as presenting safety challenges during their highway safety planning process. This level of detail is also necessary to demonstrate an ''active network of inspection stations,'' as required by the Federal statute.

As individual project agreements are executed to fulfill this requirement, the HSP must be amended to reflect them (as explained later), and Regional Administrators will review these project agreements to ensure that, together, they evidence an ''active network'' of child restraint inspection stations. NHTSA is retaining the requirement for States to certify that all stations and events identified by the State as its active network will be staffed by CPS technicians. Upcoming changes to the GMSS application system for FY 2019 should further simplify this process.

2. Child Passenger Safety Technicians (23 CFR 1300.21(d)(4))

The FAST Act continued the MAP–21 requirement that States have a plan to recruit, train and maintain a sufficient number of CPS technicians. The IFR allowed States to document this information in a table and submit it as part of the annual HSP, in lieu of a separate submission setting forth a detailed plan. In the table, States were required to submit the number of classes to be held, their location, and the estimated numbers of trainees needed to ensure full coverage of child passenger inspection stations and events by nationally certified CPS technicians. NHTSA intended that eliminating the requirement for the detailed plan would reduce burdens.

MN DPS commented that it would not be able to obtain demographic information about technicians. During the FY 2018 application process, a number of States asserted similarly that they would not have these specific class details at the time of application. MN DPS asked for more clarity on the meaning of a ''sufficient number'' of child passenger safety technicians. Finally, MN DPS stated that it would be easier to provide narrative information on the recruiting plan than to list class and attendee information, and noted that this requirement is duplicative because NHTSA asks for it under both the Section 402 and the Section 405 applications.

As an integral part of the HSP planning process, States must have information about their training plans for CPS technicians for the upcoming grant cycle at the time of HSP submission. This information is also necessary for a State to qualify for a Section 405 Occupant Protection grant, whether it is a high or lower seat belt use rate State. NHTSA declines to further define the term ''sufficient number.'' What is a ''sufficient number'' of inspection stations (and their appropriate distribution to address safety needs), is dependent on the problem identification process, and will vary based on unique circumstances in each State. That is why NHTSA places strong emphasis on the State's problem identification and selection of countermeasure strategies.

In keeping with the problem identification process, NHTSA is clarifying that the requirement is for States to identify in the HSP countermeasure strategies and planned activities for recruiting, training and maintaining a sufficient number of CPS technicians based on the State's problem identification. At a minimum, the State must submit an estimate of the total classes to be held and the estimated total number of CPS technicians to be trained in the upcoming grant year to ensure coverage of child restraint inspection stations and events by CPS technicians. As part of the State's problem identification process, the description should also include information on the geographic problem areas in the State where the countermeasure strategies and activities are planned, but does not require the State to identify each class or its location at this time. As in the case for child restraint inspection stations, discussed above, the HSP must be amended as individual project agreements are executed to fulfill this requirement, and Regional Administrators will review these project agreements to ensure that, together, they evidence a sufficient number of CPS technicians to meet State needs under the problem identification process. Upcoming changes to the GMSS application system for FY 2019 should further simplify this process, facilitating the linkage of information in the HSP with information needed to meet this requirement.

NHTSA does not intend to impose duplicative requirements. In fact, a guiding principle in the drafting of the IFR was to remove duplicative requirements, allowing States to point to sections of the HSP where information has already been provided. The Section 405 statute specifically requires States to submit a plan for recruitment, training and retention of CPS technicians. To the extent that a State chooses to provide *all* of the information required here in the body of the HSP as part of its Section 402 program, the State need not repeat it again elsewhere—the IFR provided that the State need only identify where the information is located in the HSP, and NHTSA is not changing that flexibility.

3. Seat Belt Enforcement (23 CFR 1300.21(e)(3))

The IFR set forth the criterion requiring a State to conduct sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year based on problem identification in the State. States are required to show that enforcement activity involves law enforcement covering areas where at least 70 percent of unrestrained fatalities occur. States are already required to include in the HSP an evidence-based traffic safety

enforcement program and planned high-visibility enforcement strategies to support national mobilizations (§ 1300.11(d)(5) and (6)), and this criterion is consistent with that requirement.

5-State DOTs commented that using unrestrained fatalities as the only metric would be problematic because resource constraints make it difficult to secure law enforcement participation in all areas. 5-State DOTs stated that the population metric used under the MAP–21 rulemaking (70 percent of the State's population) is more flexible and that there is no rationale for the change under the IFR. MD DOT and MN DPS stated that the geographic area under the unrestrained fatalities metric would be difficult to define. MD DOT also noted that using occupant fatalities alone in determining areas of enforcement creates the possibility of basing projects on small data sets that do not always paint a clear picture of the problem. MD DOT asserted that highway safety programs are generally based on data that includes both fatal and serious injury crashes to compile a more definitive illustration of where a specific problem area exists, and recommended that this section capture the data sets from which performance measures are actually determined—fatal and serious injury crashes. An individual commenter asked why NHTSA selected 70 percent for the metric.

NHTSA declines to change the metric to ''70 percent of the State's population.'' As noted in the IFR, a metric that is defined by the location of the problems sought to be addressed is based on a problem identification approach. States are already required under Section 402 to use problem identification when they develop their occupant protection countermeasures for HSPs each year. The statutory purpose of increasing occupant protection through these programs is best effectuated when States are targeting their problem areas rather than simply following a population-based approach. However, NHTSA agrees with MD DOT that including serious injuries as well as fatalities is fully consistent with the problem identification process and may in fact add to the value of the process. For this reason, but also cognizant that some States may not have data on unrestrained serious injury crashes, NHTSA amends the IFR to permit the use of either (1) fatalities or (2) both fatalities and serious injuries as the unrestrained population metric.

NHTSA does not believe that this metric (with the change noted above) is problematic for States to address in their law enforcement efforts. States are not required under this criterion to have full law enforcement participation or to provide a detailed accounting of the geographic area covered by law enforcement. NHTSA understands that State and local law enforcement face challenges that are unique to each State, and that all resources may not be available in all areas. However, State law enforcement resources should be targeted to areas experiencing the problems—that is the core of the problem identification process.

C. State Traffic Safety Information System Improvements Grants (23 CFR 1300.22)

1. Traffic Records Coordinating Committee (TRCC) Requirement (23 CFR 1300.22(b)(1))

The IFR required States to provide the dates for three meetings that were held during the preceding fiscal year in order to ensure that States meet the statutory requirement that the TRCC meet three times a year. GHSA asserted that the regulatory text requires the submission of three proposed TRCC meeting dates while the preamble to the IFR indicates that States are not required to submit those proposed meeting dates. GHSA requested that NHTSA implement the language in the preamble because it is less burdensome. This concern appears to be a misunderstanding of the requirement. The regulatory text requires States to submit ''[a]t least three meeting dates of the TRCC during the 12 months immediately *preceding* the application due date.'' (Emphasis added.) No change to the regulation is required.

2. Quantifiable and Measurable Progress Requirement (23 CFR 1300.22(b)(3))

The Federal statute requires that States demonstrate quantitative progress in a data program attribute for a core highway safety database. CA OTS, DE OHS, GHSA, and an individual commenter stated that the requirement to provide a written description of performance measures with supporting documentation requires significant time and resources from State applicants. The IFR requirement (written description and supporting documentation to demonstrate quantitative improvement) has been in place since the MAP–21 rule. NHTSA does not believe it is unduly burdensome, and it is necessary for NHTSA to ensure that States meet the eligibility requirement created by Congress. NHTSA declines to amend the language.

CA OTS, GHSA, and GU OHS expressed concern that States that do not submit voluntary interim progress reports documenting performance measures will be found to be delinquent in stewardship of the program. NHTSA recommends submission of interim progress reports as a best practice to give States additional opportunities to receive NHTSA feedback and improve their applications prior to submission. However, the decision to submit such a report is purely voluntary, and the choice not to submit the report does not lead to any consequences for a State.

D. Impaired Driving Countermeasures Grants (23 CFR 1300.23)

1. Basic Impaired Driving Grants (23 CFR 1300.23(d), (e), and (f))

In the IFR, NHTSA eliminated several elements that were part of the grant application process under the MAP–21 rule. This streamlining resulted in the reduced requirement that the State submit only a single document (other than certifications and assurances)—a Statewide impaired driving plan—to demonstrate compliance with the Federal statute. GHSA asserted that this application process created ''additional data collection and reporting requirements for mid- and high-range States,'' stating that these were not required under the FAST Act and should be revised or deleted. CA OTS agreed, and sought to have the ''additional administrative burden'' removed.

The IFR requirement is consistent with the Federal statute, which conditions the award of grants to mid-range and high-range States on the convening of a Statewide impaired driving task force to develop a Statewide impaired driving plan. In the IFR, NHTSA set minimal application requirements for States to demonstrate that they convened the statutorily-required task force and developed the statutorily-required plan. To receive a grant, a State must include a narrative statement explaining the authority of its task force to operate and develop and approve the plan; the identification of task force members; and a strategic component that covers certain impaired driving areas based on NHTSA's Impaired Driving Guideline No. 8–a planning guideline that has been in place for decades and is familiar to all States as a tool used in the Section 402 program.[17] For a high-range State, the document also needs to include, on the basis of an assessment required under

[17] The Federal statute requires State highway safety programs to comply with Uniform Guidelines promulgated by NHTSA. (*See* 23 U.S.C. 402(a)(2).)

the Federal statute, sections addressing assessment recommendations and providing a detailed plan for spending funds on impaired driving activities. (*See* 23 U.S.C. 405(d)(3)(C).)

The IFR closely adhered to the statutory requirements, providing for additional context and information only where necessary to ensure that the mandated task forces and plans create a basis for serious consideration of impaired driving problems in a State. As neither of the commenters provided specifics about what they viewed as burdensome, NHTSA declines to make changes to these requirements.

Although NHTSA is not changing the requirements and is not defining a specific development process that States must use, we restate here the description provided in the IFR preamble of an optimal process. Such a process would involve a 10- to 15-member task force from different impaired driving disciplines meeting on a regular basis (at least initially) to review and understand the requirements, including the referenced Guideline for impaired driving plans, and to apply the principles of the Guideline to the State's impaired driving issues. The result should be a comprehensive strategic plan that forms the State's basis to address impaired driving issues. In contrast, a process that organizes a task force just days before the application deadline or that produces a plan consisting of only a list of activities or failing to cover the specified impaired driving areas would jeopardize the receipt of a grant under this section.

2. Alcohol-Ignition Interlock Law Grants (23 CFR 1300.23(g))

The IFR implemented a separate grant program for States that adopt and enforce mandatory alcohol-ignition interlock laws covering all individuals convicted of a DUI offense. The IFR repeated the three exceptions specified in the FAST Act that permit a convicted individual to drive a vehicle without an interlock. Specifically, a State's law may include exceptions from mandatory interlock use if—(1) an individual is required to drive an employer's motor vehicle in the course and scope of employment, provided the business entity that owns the vehicle is not owned or controlled by the individual; (2) an individual is certified in writing by a physician as being unable to provide a deep lung breath sample for analysis by an ignition interlock device; or (3) a State-certified ignition interlock provider is not available within 100 miles of the individual's residence.

NSC encouraged NHTSA to retain these ''three important grant exceptions'' to the requirements in the final rule. As the Federal statute mandates allowing these three exceptions, NHTSA must and will continue to allow them as part of the review process to determine whether a State's law meets the requirements.

3. 24–7 Sobriety Program Grants (23 CFR 1300.23(h))

The IFR implemented the statutory requirement that States meet two separate requirements for a 24–7 sobriety grant. The first requirement mandates that a State enact and enforce a law that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges for at least 30 days. The second requirement mandates that a State provide a 24–7 sobriety program.

AIIPA urged NHTSA to link the 24–7 grant program ''with a requirement to install and maintain installation of a state approved ignition interlock device.'' AIIPA asserted that the combined testing requirements of a 24–7 sobriety program and an ignition interlock device provide better protection than would the sobriety program alone. The Coalition of Ignition Interlock Manufacturers and Intoximeters jointly provided a similar comment.[18] NHTSA agrees with the commenters that employing a range of strategies to monitor offenders can identify program violators more effectively than using a single strategy. However, the Federal statute identifies the elements of compliance for ignition interlock and 24–7 sobriety program grants that a State must meet, and NHTSA does not have authority to take other approaches. Therefore, NHTSA declines to make interlock use a mandatory component of a 24–7 sobriety program grant or to combine the elements of both grant programs as the basis for compliance.

Intoximeters indicated its support for twice-per-day in-person breath testing at 12-hour intervals as the primary test method required under the grant. In its view, this test method is able to provide for quick sanctioning ''in the shortest period of time because the individual has appeared at the test site to submit to the test before law enforcement.'' NHTSA agrees that in-person testing allows for quick sanctioning of offenders, and States are encouraged to include this approach as part of the testing options available under a 24–7 sobriety program. However, the Federal statute allows States to comply using a variety of test methods besides twice-per-day testing. Such methods include continuous transdermal alcohol monitoring via an electronic monitoring device and alternative methods approved by NHTSA. The statute also does not create a preference for one test method over another. Although twice-per-day testing is a valuable strategy for 24–7 sobriety programs, it may not be practical to use in every situation depending on the offender's location, the number of offenders that a law enforcement agency may be required to monitor, or some other reason. Based on the flexibility afforded by the Federal statute, NHTSA declines to specify a single test method that must be used under the program.

For separate reasons, NHTSA believes that a flexible approach to testing is preferable to a rigid one that limits compliance options. Adopting a limiting approach could throw current State laws or programs out of compliance and prevent States from qualifying for a grant. Highly successful and well-established programs employ multiple test methods to monitor offenders. Such methods include twice-per-day testing at a location, urinalysis, drug patches, electronic alcohol monitoring devices, ignition interlock monitoring (provided the interlock is able to require tests twice a day without vehicle operation), and mobile alcohol breath testing. As long as a test method results in violators being identified in a reasonably swift fashion, NHTSA will accept its use by a State in a 24–7 sobriety program. Consequently, the final rule revises the permissible test methods under the program definition to identify additional test methods that may be used.

NHTSA does not intend to reduce flexibility, however, and a State may use a NHTSA-approved test method that is not identified in the regulation in fashioning its program, provided it aligns with the deterrence model that requires *swift and certain* sanctions for noncompliance. This approach is consistent with the Federal statute, which specifies that NHTSA has the discretion to approve other test methods.

With this understanding of approved test methods, States must take steps to identify the specific test methods they permit to be used to monitor offenders in their programs and clarify the frequency and time periods of those test methods. Nonspecific test methods or methods where determining test

[18] This comment raised other issues beyond the scope of this rule, such as what mandates a court should impose and the conditions under which they should be imposed. We do not address these issues here.

frequency is impossible or uncertain will not meet the definition of a 24–7 sobriety program under this section.

Intoximeters requested that NHTSA incorporate into the final rule the traditional principles of ''swift and certain'' deterrence noted in the IFR preamble as a basis for ensuring that State test methods allow for immediate sanctions of program violators. The identification of the deterrence model in the IFR preamble was intended as a general guideline to be used by States to ensure that their programs are successful. It is not intended to limit testing methods to only those that provide for immediate sanctioning. As NHTSA noted earlier, the statutory definition of a 24–7 sobriety program provides for more flexibility. In this final rule, NHTSA clarifies that test methods must be specified and that test frequency should be identifiable based on the test method used. We do not believe that the general deterrence model noted in the IFR preamble needs to be more specifically incorporated into the regulation.

Intoximeters commented that the ''data driven measures'' that are part of separate requirements for submitting a HSP under Section 402 should be incorporated into requirements for receiving a 24–7 sobriety program grant. The FAST Act creates specific requirements that States must meet in order to receive a 24–7 sobriety program grant. Adding the measures Intoximeters identifies to the 24–7 sobriety program grant requirements would alter the defined basis for receiving a grant under the statute. Although NHTSA encourages States to implement and review their 24–7 sobriety programs using the data-driven requirements and performance measures generally, NHTSA declines to make their use mandatory to receive a grant.

4. Use of Grant Funds (23 CFR 1300.23(j))

The FAST Act specifies the eligible uses of the grant funds, and the IFR codified those uses without change. Intoximeters asked whether certain expenditures are allowed under the Federal statute's general language allowing States to use grant funds for ''costs associated with a 24–7 sobriety program.'' Specifically, it asked whether the costs of ''24/7 program coordinators as well as computer or breath testing, transdermal testing equipment qualify for use of grant funds.'' In addition, with the understanding that many offenders pay the costs associated with a 24–7 sobriety program, Intoximeters asked ''whether there are limitations on the use of funds to purchase equipment or services that are used to generate income and potentially profits.'' The statute makes clear that grant funds are available to cover the costs of a 24–7 program, and this may include associated equipment and services. When the use of Federal grant funds generates income, special Federal rules apply. As States are the recipients of these funds, NHTSA believes that they are best situated to consider and evaluate issues related to the use of grant funds; States are encouraged to contact their respective Regional Offices as specific questions arise.

In the IFR, NHTSA inadvertently did not amend one of the eligible use of funds to reflect changes in the FAST Act. We update the rule to reflect the change. (*See* § 1300.23(j)(1)(ii).)

E. Distracted Driving Grants (23 CFR 1300.24)

NSC encouraged NHTSA to retain flexibilities such as by removing the requirement for escalating fines, allowing States to administratively certify to testing for distracted driving issues and establishing ''consolation'' grants. (NHTSA interprets ''consolation'' grants as the Special Distracted Driving Grants established under the FAST Act.) The ''flexibilities'' described by NSC are already afforded by the Federal statute, and NHTSA adopted these provisions without change in the IFR. Advocates commented that allowing States to qualify for grants with secondary enforcement laws weakened the distracted driving program. The FAST Act specifically permitted States to qualify for Special Distracted Driving grants in FY 2017 with secondary enforcement laws, and NHTSA adopted this provision without change in the IFR. (Note that the FAST Act made Special Distracted Grants available only for fiscal years 2017 and 2018. Because these grants are no longer available, NHTSA is removing the regulatory provisions related to Special Distracted Driving grants. (§ 1300.24(e) and (f).))

F. Motorcyclist Safety Grants (23 CFR 1300.25)

1. Motorcycle Awareness Program and Impaired Driving Program Data Requirements (23 CFR 1300.25(f) and 23 CFR 1300.25(h))

The Motorcycle Awareness Program criterion and the Impaired Driving Program criterion in the IFR required States to use State data consistent with § 1300.11 (providing for project-level information at the time of HSP submission) to support their performance targets and countermeasure strategies. CA OTS, 5-State DOTs, and GHSA recommended eliminating the requirement to provide crash data at the project level. These commenters asserted that States do not have such data at the time of grant application.

As NHTSA explained in the discussion under § 1300.11(d)(2), we agree that States may not have completed negotiations on project agreements at the time of HSP submission, and we have therefore removed the requirement for States to report discrete projects in the HSP, and instead require them to report planned activities. However, States must and do have access to crash data that will support the performance measures and countermeasure strategies under these two criteria. States continually collect crash data to identify problem areas and track trends in traffic safety. Moreover, for these criteria, the IFR provided ample flexibility—specifically, it allowed States to demonstrate compliance by using the most recent year for which final State crash data are available, but no later than three calendar years prior to the application due date. In view of this significant flexibility, we decline to eliminate the requirement to provide crash data under these criteria. The requirement is fundamental to problem identification and to the development of countermeasure strategies in the HSP.

2. Motorcycle Rider Training Course (23 CFR 1300.25(e))

MN DPS commented that the IFR unduly limits the number of entry-level rider training courses to four specified curricula. In fact, the IFR substantially simplified the requirement, while preserving the flexibility MN DPS desires. It replaced the requirement for States to submit documentation detailing their motorcycle rider training course with a simple certification from the GR. In the certification, the GR must simply identify the head of the designated State authority having jurisdiction over motorcyclist safety issues and certify that that official has approved and the State has adopted and uses one of four identified training programs.[19] NHTSA chose this approach to alleviate burdens in the vast majority of cases because almost all States use one of these four well-established and effective training programs, obviating the need for additional justification. However, the

[19] The four training programs are: The Motorcycle Safety Foundation (MSF) Basic Rider Course, TEAM OREGON Basic Rider Training (TEAM OREGON), Idaho STAR Basic I (Idaho STAR), or the California Motorcyclist Safety Program Motorcyclist Training Course (California).

IFR permitted an alternative option to allow a training course that is not one of the four identified in the regulation. Under that alternative, a State may develop a motorcycle rider training course that meets its unique regional needs and may use such a training course after approval by NHTSA that it meets the Model National Standards for Entry-Level Motorcycle Rider Training. Given this flexibility, NHTSA declines to make any changes to the rule.

CA OTS, GHSA and 5-State DOTs urged NHTSA to retain the option either to conduct training in a majority of counties or political subdivisions in the State or to conduct training in a majority of counties or political subdivisions that account for a majority of registered motorcyclists, as existed prior to the IFR. These commenters claimed that States lose flexibility in allocating very limited funds when restricted to the single option in the IFR. They asserted that, as long as a State provides justification for the selected sites, this flexibility would permit a State to consolidate training locations for multiple jurisdictions to reduce costs yet still reach the motorcycle riders of those jurisdictions.

The IFR required the State to offer at least one motorcycle rider training course in counties or political subdivisions that collectively account for a majority of the State's registered motorcycles. NHTSA removed the option of offering the training course in a majority of counties or political subdivisions for two reasons. First, it did not ensure geographically that the statutory requirement for a *Statewide* motorcycle rider training program would be achieved, potentially prejudicing rural areas. More significantly, it decoupled the training from the targeted population—it is important for training to be delivered in locations that serve populations where motorcycles are in use—not simply in large population centers.

The IFR's approach did not require training to be offered in *all* counties or political jurisdictions in the State, nor did it require that *only* those jurisdictions with most of the motorcycle registrations be included. States have the flexibility to offer training in any combination of counties or political jurisdictions and to consolidate training sites as they desire, as long as they meet the requirement that training is offered in counties or political jurisdictions that *collectively* account for a majority of the State's registered motorcycles. (The commenters acknowledged that many States use the majority of registered motorcycles approach.) Because NHTSA believes that the IFR requirement achieves important safety objectives while allowing ample flexibility, we decline to make changes to the rule.

3. Motorcyclist Awareness Program (23 CFR 1300.25(f))

The Federal statute requires the Motorcyclist Awareness Program to be ''developed by, or in coordination with, the designated State authority having jurisdiction over motorcyclist safety issues . . .'' The IFR made changes to streamline submission requirements from what was previously required. The IFR required a simple certification from the GR, identifying the head of the designated State authority having jurisdiction over motorcyclist safety issues and certifying that the State's motorcyclist awareness program was developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues. The IFR eliminated the requirement for a detailed strategic communications plan, instead requiring implementation of a data-driven State awareness program (using State crash data) that targets problem areas. The IFR required the State to submit in its HSP a performance measure and performance targets with a list of countermeasure strategies and projects that will be deployed to meet these targets. The State must select countermeasure strategies and projects implementing the motorist awareness activities based on the geographic location of crashes involving a serious or fatal injury.

CA OTS, GHSA, and 5-State DOTs urged NHTSA to eliminate the requirement to implement countermeasure strategies and projects in a ''majority of counties or political subdivisions where there is at least one motorcycle crash causing serious or fatal injury.'' These commenters sought restoration of the requirement under the MAP–21 rule allowing for awareness programs in a majority of counties or political subdivisions with the largest number of motorcycle crashes.

The IFR did not focus on all motorcycle crashes, choosing instead the approach of encouraging States to focus on data-driven identification of traffic safety problems and countermeasure strategies that target those specific problems. In NHTSA's view, the previous approach of including all motorcycle crashes dilutes the effectiveness of data-driven problem identification and countermeasure strategies, because some of these crashes may not rise to an identifiable problem related to motorcyclist awareness. The purpose of the awareness program is to make other motorists aware of motorcyclists.

After careful consideration, however, NHTSA recognizes that using the metric of crashes involving a fatality or serious injury also may not properly capture awareness concerns, reducing the effectiveness of countermeasure strategies relying on such data. We believe that motorcyclist awareness issues are best aligned with multi-vehicle crashes involving motorcycles, and that such multi-vehicle crashes are a better proxy for estimating motorist error. Balancing these considerations, we are amending the rule to require the motorcyclist awareness program to be conducted ''in the majority of counties or political subdivisions where the incidence of crashes involving a motorcycle and another motor vehicle is highest.'' NHTSA believes that this approach largely addresses the commenters' concerns about the crash population to consider, while also more strategically addressing the awareness problem. It should also reduce the geographic population under consideration, alleviating those concerns. With this change, States will be required to submit data identifying the jurisdictions that have the highest incidence of multi-vehicle motorcyclist-related crashes, and to conduct awareness activities in those areas.

The targeting of more focused geographic areas where the data indicate that awareness is an issue will provide States with more flexibility to tailor countermeasure strategies with appropriate levels of ''message intensity,'' resulting in a better use of scarce resources across a likely smaller geographic range, rather than in areas where awareness problems do not pose concerns. Accordingly, we amend the rule to reflect this change and to replace the reference to projects with planned activities.

4. Minor Corrections to the IFR

NHTSA is correcting two minor inconsistencies between the Motorcycle Safety regulatory text and Appendix B for Reduction of Fatalities and Crashes Involving Motorcycles and Reduction of Fatalities and Accidents Involving Impaired Motorcyclists criteria. For Reduction of Fatalities and Crashes Involving Motorcycles and Reduction of Fatalities and Accidents Involving Impaired Motorcyclists criteria, we are adding language in the regulatory text to require the State to submit a description of its methods for collecting and analyzing its data. This information is needed for NHTSA to confirm the validity of the crash data, and was

inadvertently omitted from the IFR regulatory text.

G. State Graduated Driver Licensing Grant (23 CFR 1300.26)

The FAST Act reset the State GDL incentive grant program introduced by MAP–21 (codified at 23 U.S.C. 405(g)) by significantly amending the statutory compliance criteria. In response to the IFR, an individual commenter stated that it was very difficult for small States to qualify for a GDL grant due to the legislative challenges they face. She recommended a ''step-in program'' to make compliance easier in the earlier years. The Federal statute does not authorize NHTSA to establish a phase-in period—all statutory requirements must be met to qualify for the GDL grant. NHTSA makes no changes to the rule in response to this comment.

1. Learner's Permit Stage (Only) (23 CFR 1300.26(d))

The only comments concerned the requirement that the learner's permit holder either (1) complete a State-certified driver education or training course or (2) receive at least 50 hours of behind-the-wheel training,[20] with at least 10 of those hours at night, with a licensed driver who is at least 21 years of age or is a State-certified driving instructor. (*See* § 1300.26(d)(5).) Advocates cited to the finding by the Highway Loss Data Institute that increasing the supervised driving requirement to 40 hours was associated with a 10 percent lower rate of insurance collision claims among 16- to 17-year-old drivers. (Trempel, Rebecca E. *Graduated Driver Licensing Laws and Insurance Collision Claim Frequencies of Teenage Drivers,* HLDI, November, 2009.) Advocates requested that the requirement be changed to include both driver education and a minimum of 50 hours of behind-the-wheel training. In contrast, NSC encouraged NHTSA to retain the language specifying that only one of the two requirements need be satisfied, seeking to enable more States to qualify for the grants. The plain language of the FAST Act is clear—a State is eligible for a grant as long as it provides for *either* completion of a State-certified driver education or training course *or* completion of at least 50 hours of behind-the-wheel training (with at least 10 of those hours at night). NHTSA does not have the authority to deviate from this statutory requirement. NHTSA makes no changes to the rule.

2. Learner's Permit Stage and Intermediate Stage (23 CFR 1300.26(d)–(e))

The FAST Act required the delay of issuance of an unrestricted driver's license (*i.e.,* extension of the learner's permit and/or intermediate stage) if the driver is ''convicted of a driving-related offense . . . including . . . misrepresentation of the individual's age.'' (23 U.S.C. 405(g)(2)(iii)(II).) This statutory language made clear that the offenses at issue must be ''driving-related.'' The IFR did not correctly implement this provision because it stated the provision as ''a driving-related offense *or* misrepresentation of the driver's true age'' (emphasis added), imposing a stricter requirement by implying that the offense of misrepresentation of age need not be driving-related. To correct this unintended inaccuracy, in the final rule NHTSA is striking the words ''or misrepresentation of the driver's true age'' where they appear in the requirements for the two stages and adding it to the definition of ''driving-related offense.''

NHTSA is making a non-substantive revision to the distracted driving component of the GDL program in the learner's permit and intermediate stages, by moving the language regarding the violation being a primary offense to a new section that applies the provision globally to all components of both stages. (*See* § 1300.26(d)(6) and (e)(5).) This revision is purely organizational and has no effect on the operation of this component.

3. Primary Enforcement (23 CFR 1300.26(f))

The Insurance Institute for Highway Safety (IIHS) asked whether night and passenger restrictions must be enforced on a primary basis. Although the IFR was not explicit on this point (except that the distracted driving component of the GDL program included primary enforcement language to ensure alignment with the separate distracted driving grant program), that was the intent and consistent with the Federal statute. In response to the comment, NHTSA is adding a provision in the final rule specifying that the driving restrictions of the learner's permit and intermediate stages must be enforced as primary offenses.

4. Exceptions to a State's GDL Program (23 CFR 1300.26(g))

NHTSA is making one change to the limited exception allowing States to issue a permit or license when demonstrable hardship would result from its denial. NHTSA no longer requires the driver to start with the learner's permit stage, as some drivers may have already completed that stage in another State. However, a hardship license holder seeking to obtain an unrestricted driver's license will continue to be required to participate in the State's GDL program, beginning at the appropriate stage, prior to being issued such a license. NHTSA is making this change in recognition of the variability in State GDL laws and the reality that drivers at various stages in a State's GDL process relocate across State lines.

H. Nonmotorized Safety Grants (23 CFR 1300.27)

NHTSA received one comment from an individual recommending additional criteria or options for States to qualify for nonmotorized grants. The FAST Act prescribed the criteria for these grants—eligibility is limited to States whose annual combined pedestrian and bicyclist fatalities exceed 15 percent of their total annual crash fatalities. NHTSA does not have the authority to alter this requirement. NHTSA makes no changes to the rule.

VII. Administration of Highway Safety Grants, Annual Reconciliation and Non-Compliance (Subparts D, E and F)

A. Amendments to Highway Safety Plans (23 CFR 1300.32)

As discussed in Section V.B.3. of this preamble, NHTSA is removing the requirement to report information about specific project agreements at the time of HSP submission. However, as States execute their HSPs and formalize projects during the course of the grant year, States must amend their HSPs to identify and provide details about these project agreements. Specifically, States must provide project agreement numbers, subrecipient(s), amount of Federal funds, source of funds, and eligible use of funds (formerly referred to as program funding code). We are amending the regulatory text to provide that the State must amend the HSP as project agreements are finalized, but before performance under the project agreement begins. This is to avoid the situation where a State incurs costs under a project agreement and the Regional Administrator determines that the project agreement does not align with the HSP. States must also update this information when it changes. This information is necessary both to ensure that NHTSA has an adequate audit trail to track grant expenditures and also to

[20] Behind-the-wheel training refers to actual instructional driving time during which the novice driver operates a vehicle (*e.g.,* off-street, on-street, on-highway) and is guided by a licensed driver or instructor in the front passenger seat. Observation is not included in behind-the-wheel time.

ensure that the specific projects called for under various Section 405 grants for which a State has applied and been approved are performed. More specifically, as a fundamental part of accountability for Federal funds, NHTSA must have the ability to determine, when paying for State grant expenses, the specific project agreement under which the expenses were incurred.[21] Additionally, because applying for Section 405 and 1906 grants under the IFR is now possible by identifying a particular section of the HSP, and NHTSA has reduced the project-level detail required to be provided at the time of HSP submission, States must follow through and enter into project agreements for which they provided reduced detail in the HSP to demonstrate they are following through on their commitment made at the time of application for Section 405 and 1906 grants. NHTSA Regional Administrators will review these HSP amendments adding project agreements for alignment with the approved HSP and the Section 405 grants for which a State was approved, and the project agreements will form the basis for payment of vouchers, as described below. Accordingly, we amend this section to reflect these changes.

MN OTS stated that its project numbers are in a specific format, and that restructuring the project numbers and tracking by project number would require a restructuring of its grant system. The IFR does not impose a specific format for project numbers—States may use whatever format they wish that allows them to track and account for Federally-funded projects.[22] To remove any concern and confusion, NHTSA is changing the term ''project number'' to ''project agreement number,'' and amending the definition in the final rule to ''a unique *State generated* identifier assigned to each project agreement in the Highway Safety Plan'' (emphasis added) to make clear that States may use their own numbering system. (*See* § 1300.3.)

[21] For this reason, the project agreement number (along with other particulars) is required to be reported here and also later when vouchers are submitted (as discussed under ''Vouchers and Project Agreements''). Without this information, NHTSA would be unable to align specific grant expenditures charged under a voucher with actual work performed under a project agreement, a necessary component of any audit process. This level of detail is already required to be collected by the State in connection with sub-awards under 2 CFR 200.331, so it should not create any additional burden.

[22] States that make awards to subrecipients are already required to assign a unique identifier for each sub-award. (*See* 2 CFR 200.331(a).)

B. Vouchers and Project Agreements (23 CFR 1300.33)

Most of these requirements remained unchanged in the IFR from the requirements under the MAP–21 rule, except for non-substantive updates to cross-references and terms. However, in order to improve oversight of Federal grant funds, the IFR required States to identify specific project-level information in their vouchers, including project numbers, amount of indirect costs, amount of planning and administration costs, and program funding codes, in addition to the amount of Federal funds, local benefit and matching rate.

Because NHTSA is now requiring some of this specific project agreement information to be submitted in amendments to the HSP, as discussed in the preceding section, we are deleting unnecessary duplicative entries related to voucher contents in § 1300.33. Accordingly, vouchers must now identify only the project agreement numbers of the activities for which work was performed, the amount of Federal funds up to the amount identified in § 1300.32(b), the amount of Federal funds allocated to local benefit, and the matching rate (breaking down these items by project agreement number where multiple projects are being reported on one voucher).

NHTSA is actively working to program GMSS to populate a number of fields, such as project agreement number and eligible use of funds, to facilitate and streamline this process.

C. Annual Report (23 CFR 1300.35)

The IFR retained much of the annual report requirements from the MAP–21 rule. However, NHTSA made two additions, one to require a description of the State's evidence-based enforcement program activities and the other to require an explanation of reasons for projects that were not implemented. CA OTS, CNMI DPS–HSO, CT HSO, DE OHS, GHSA, GU OHS, and NY GTSC commented that the requirement to explain the reasons why projects were not implemented could be burdensome, depending on the level of detail required. To clarify, the explanation for projects that were not implemented is intended to be a high-level summary. There may be compelling reasons why a State may not have implemented some planned activities from the HSP, and it is important for States to assess these reasons and use this information to identify issues and trends as part of their overall highway safety planning process. With this clarification about the level of reporting expected, NHTSA declines to make changes to the final rule except to replace the reference to projects with planned activities.

Earlier in this preamble NHTSA explained that it was removing two requirements from inclusion in the HSP: (1) The requirement for States to include, in the Performance Report section of the HSP, a description of upcoming adjustments if a performance target was missed (*see* Section V.B.1.); and the requirement to include specific metrics from high-visibility enforcement campaigns (*see* Section V.B.3.). NHTSA agreed with commenters that this information would be more appropriate to provide in the annual report. Accordingly, the final rule now requires this information in the annual report.

D. Expiration of the Highway Safety Plan (23 CFR 1300.40)

In the IFR, States had 90 days from the end of the fiscal year to submit final vouchers, with an additional extension limited to 30 days in extraordinary circumstances. CT HSO, GHSA and NY GTSC objected to limiting extensions to 30 days. NY GTSC recommended 45, 60 or 90 days. HSPs expire on September 30, at the end of each fiscal year. States have three months from that date to voucher for costs incurred under that HSP, and an additional month in extraordinary circumstances. NHTSA does not believe that a recurring annual program requires more than one-third of a year to accommodate an orderly closeout of HSP activities for an individual grant cycle. States are encouraged to work with subrecipients to improve their highway safety planning and administration efforts for effective and efficient use of Federal funds, as required in § 1300.4. NHTSA makes no changes to the rule in response to these comments.

E. Disposition of Unexpended Balances (23 CFR 1300.41)

The IFR retained many provisions from the MAP–21 rule, but conformed the treatment of carry-forward funds to the revised HSP content requirements. As NHTSA noted in the IFR, a fundamental expectation of Congress is that funds made available to States will be used promptly and effectively to address the highway safety problems for which they were authorized. Section 402, 405 and 1906 grant funds are authorized for apportionment or allocation each fiscal year. Because these grant funds are made available each fiscal year, States should strive to use them to carry out an annual highway safety program during the fiscal year of the grant.

CA OTS, DE OHS, GHSA, GU OHS, MN OTS and NY GTSC asked for clarification or modification of the requirement to assign all funds to specific project agreements. MN OTS stated that it would not be able to obligate carry forward funds by year to specific projects in the HSP, noting that the HSP is completed six months before the exact amount of carry-forward money is finalized. These commenters stated that this type of information is not available at the time of HSP submission. In view of the changes to project-level reporting discussed earlier in this preamble (*see* Section V.B.3.), NHTSA is making conforming changes to this section by deleting the requirement that all carry-forward highway safety grant funds be assigned to specific projects.

F. Sanctions—Risk Assessment and Non-Compliance (23 CFR 1300.52)

CA OTS, GHSA, and GU OHS expressed concern that the requirement that States ''effectively implement statutory, regulatory, and other requirements imposed on non-Federal entities'' is too subjective, and requested a more objective risk evaluation factor. The requirements in § 1300.52 incorporate the risk assessment requirements laid out in the OMB Circular (2 CFR part 200). The requirement to ''effectively implement statutory, regulatory, and other requirements'' is found in 2 CFR 200.205(c)(5) and is a fundamental component of Federal grant law. NHTSA believes that States have an adequate comfort level with the meaning of the term ''effectively,'' and declines to further clarify the term used by the Office of Management and Budget in the circular.

VIII. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures [TBD OMB Designation]

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866 or Executive Order 13563. This action makes changes to the uniform procedures implementing State highway safety grant programs, as a result of enactment of the Fixing America's Surface Transportation Act (FAST Act). While this final rule would establish minimum criteria for highway safety grants, most of the criteria are based on statute. NHTSA has no discretion over the grant amounts, and its implementation authority is limited. Therefore, this rulemaking has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures and the policies of the Office of Management and Budget.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that an action would not have a significant economic impact on a substantial number of small entities.

Under the grant programs impacted by today's action, States will receive funds if they meet the application and qualification requirements. These grant programs will affect only State governments, which are not considered to be small entities as that term is defined by the RFA. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities and find that the preparation of a Regulatory Flexibility Analysis is unnecessary.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' 64 FR 43255 (August 10, 1999). ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, an agency may not issue a regulation with Federalism implications that imposes substantial direct compliance costs and that is not required by statute unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local governments in the process of developing the proposed regulation. An agency also may not issue a regulation with Federalism implications that preempts a State law without consulting with State and local officials.

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132, and has determined that this final rule would not have sufficient federalism implications as defined in the order to warrant formal consultation with State and local officials or the preparation of a federalism summary impact statement. However, NHTSA continues to engage with State representatives regarding general implementation of the FAST Act, including these grant programs, and expects to continue these informal dialogues.

D. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 (61 FR 4729 (February 7, 1996)), ''Civil Justice Reform,'' the agency has considered whether this proposed rule would have any retroactive effect. I conclude that it would not have any retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), as implemented by the Office of Management and Budget (OMB) in 5 CFR part 1320, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The grant application requirements in this rulemaking are considered to be a collection of information subject to requirements of the PRA. The agency will publish separate **Federal Register** Notices (60-day and 30-day) when we submit the information collection request to OMB for approval.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment

of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). This rulemaking would not meet the definition of a Federal mandate because the resulting annual State expenditures would not exceed the minimum threshold. The program is voluntary and States that choose to apply and qualify would receive grant funds.

G. National Environmental Policy Act

NHTSA has considered the impacts of this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that this rulemaking would not have a significant impact on the quality of the human environment.

H. Executive Order 13211 (Energy Effects)

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under Executive Order 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not likely to have a significantly adverse effect on the supply of, distribution of, or use of energy. This rulemaking has not been designated as a significant energy action. Accordingly, this rulemaking is not subject to Executive Order 13211.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The agency has analyzed this rulemaking under Executive Order 13175, and has determined that today's action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

J. Executive Order 13045 (Protection of Children)

Executive Order 13045 applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the proposed rule on children, and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us. NHTSA certifies that this rule would not concern an environmental health or safety risk that might disproportionately affect children.

K. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The FAST Act requires NHTSA to award highway safety grants pursuant to rulemaking. (Section 4001(d), FAST Act.) The Regulatory Information Service Center publishes the Unified Agenda in or about April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

L. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

Executive Order 13771 titled ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' are subject to these requirements. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

List of Subjects in 23 CFR Part 1300

Administrative practice and procedure, Alcohol abuse, Drug abuse, Grant programs—transportation, Highway safety, Intergovernmental relations, Motor vehicles—motorcycles, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, under the authority of 23 U.S.C. 401 *et seq.,* the National Highway Traffic Safety Administration revises 23 CFR part 1300 to read as follows:

PART 1300—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY GRANT PROGRAMS

Subpart A—General

Sec.
1300.1 Purpose.
1300.2 [Reserved].
1300.3 Definitions.
1300.4 State Highway Safety Agency—authority and functions.
1300.5 Due dates—interpretation.

Subpart B—Highway Safety Plan

1300.10 General.
1300.11 Contents.
1300.12 Due date for submission.
1300.13 Special funding conditions for Section 402 Grants.
1300.14 Review and approval procedures.
1300.15 Apportionment and obligation of Federal funds.

Subpart C—National Priority Safety Program and Racial Profiling Data Collection Grants

1300.20 General.
1300.21 Occupant protection grants.
1300.22 State traffic safety information system improvements grants.
1300.23 Impaired driving countermeasures grants.
1300.24 Distracted driving grants.
1300.25 Motorcyclist safety grants.
1300.26 State graduated driver licensing incentive grants.
1300.27 Nonmotorized safety grants.
1300.28 Racial profiling data collection grants.

Subpart D—Administration of the Highway Safety Grants

1300.30 General.
1300.31 Equipment.
1300.32 Amendments to Highway Safety Plans—approval by the Regional Administrator.
1300.33 Vouchers and project agreements.
1300.34 [Reserved].
1300.35 Annual report.
1300.36 Appeals of written decision by the Regional Administrator.

Subpart E—Annual Reconciliation

1300.40 Expiration of the Highway Safety Plan.
1300.41 Disposition of unexpended balances.
1300.42 Post-grant adjustments.
1300.43 Continuing requirements.

Subpart F—Non-Compliance

1300.50 General.
1300.51 Sanctions—reduction of apportionment.
1300.52 Sanctions—risk assessment and non-compliance.
Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants (23 U.S.C. Chapter 4; Sec. 1906, Public Law 109–59, as Amended by Sec. 4011, Public Law 114–94)
Appendix B to Part 1300—Application Requirements for Section 405 and Section 1906 Grants
Appendix C to Part 1300—Participation by Political Subdivisions

Appendix D to Part 1300—Planning and Administration (P & A) Costs

Authority: 23 U.S.C. 402; 23 U.S.C. 405; Sec. 1906, Pub. L. 109–59, 119 Stat. 1468, as amended by Sec. 4011, Pub. L. 114–94, 129 Stat. 1512; delegation of authority at 49 CFR 1.95.

Subpart A—General

§ 1300.1 Purpose.

This part establishes uniform procedures for State highway safety programs authorized under 23 U.S.C. Chapter 4 and Sec. 1906, Public Law 109–59, as amended by Sec. 4011, Public Law 114–94.

§ 1300.2 [Reserved].

§ 1300.3 Definitions.

As used in this part—

Annual Report File (ARF) means FARS data that are published annually, but prior to final FARS data.

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 within the period of availability, and 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.

Countermeasure strategy means a proven effective or innovative countermeasure proposed or implemented with grant funds under 23 U.S.C. Chapter 4 or Section 1906 to address identified problems and meet performance targets. Examples of proven effective countermeasures include high-visibility occupant protection enforcement, DUI courts, or alcohol screening and brief intervention programs.

Data-driven means informed by a systematic review and analysis of quality data sources when making decisions related to planning, target establishment, resource allocation and implementation.

Evidence-based means based on approaches that are proven effective with consistent results when making decisions related to countermeasure strategies and projects.

Fatality Analysis Reporting System (FARS) means the nationwide census providing yearly public data regarding fatal injuries suffered in motor vehicle traffic crashes, as published by NHTSA.

Fatality rate means the ratio of the number of fatalities (as defined in this section) to the number of vehicle miles traveled (VMT) (expressed in 100 million VMT) in a calendar year, based on the data reported in the FARS database.

Final FARS means the FARS data that replace the annual report file and contain additional cases or updates that became available after the annual report file was released.

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

Five-year (5-year) rolling average means the average of five individual points of data from five consecutive calendar years (*e.g.*, the 5-year rolling average of the annual fatality rate).

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 that the State submits each fiscal year as its application for highway safety grants (and amends as necessary), which describes the State's performance targets, the countermeasure strategies and activities the State plans to implement, the resources from all sources the State 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 subrecipients to address highway safety problems in the State, as defined in the annual Highway Safety Plan and any amendments.

NHTSA means the National Highway Traffic Safety Administration.

Number of fatalities means the total number of persons suffering fatal injuries in a motor vehicle traffic crash during a calendar year, based on data reported in the FARS database.

Number of serious injuries means the total number of persons suffering at least one serious injury for each separate motor vehicle traffic crash during a calendar year, as reported by the State, where the crash involves a motor vehicle traveling on a public road.

Performance measure means a metric that is used to establish targets and to assess progress toward meeting the established targets.

Performance target means a quantifiable level of performance or a goal, expressed as a value, to be achieved within a specified time period.

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 challenges to efforts to improve a specific program area.

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

Project means a discrete effort involving identified subrecipients or contractors to be implemented with grant funds under 23 U.S.C. Chapter 4 or Section 1906 and that addresses countermeasure strategies identified in the Highway Safety Plan.

Project agreement means a written agreement at the State level or between the State and a subrecipient or contractor under which the State agrees to perform a project or to provide Federal funds in exchange for the subrecipient's or contractor's performance of a project that supports the highway safety program.

Project agreement number means a unique State-generated identifier assigned to each project agreement.

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.

Section 1906 means Sec. 1906, Public Law 109–59, as amended by Sec. 4011, Public Law 114–94.

Serious injuries means, until April 15, 2019, injuries classified as ''A'' on the KABCO scale through the use of the conversion tables developed by NHTSA, and thereafter, ''suspected serious injury (A)'' as defined in the Model Minimum

Uniform Crash Criteria (MMUCC) Guideline, 4th Edition.

State means, except as provided in § 1300.25(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 (HSIP) means the program defined in 23 U.S.C. 148(a)(10).

State strategic highway safety plan (SHSP) means the plan defined in 23 U.S.C. 148(a)(11).

§ 1300.4 State Highway Safety Agency—authority and functions.

(a) *In general.* In order for a State to receive grant funds under this part, the Governor shall exercise responsibility for the highway safety program by appointing a Governor's Representative for Highway Safety who shall be responsible for 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) Manage Federal grant funds effectively and efficiently and in accordance with all Federal and State requirements;

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

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

(5) 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;

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

(7) Establish and maintain adequate staffing to effectively plan, manage, and provide oversight of projects approved in the HSP and to properly administer the expenditure of Federal grant funds.

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

(1) Develop and prepare the HSP 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 projects to be funded within the State under 23 U.S.C. Chapter 4 based on identified safety problems and priorities and projects under Section 1906;

(3) Conduct a risk assessment of subrecipients and monitor subrecipients based on risk, as provided in 2 CFR 200.331;

(4) Provide direction, information and assistance to subrecipients concerning highway safety grants, procedures for participation, development of projects and applicable Federal and State regulations and policies;

(5) Encourage and assist subrecipients to improve their highway safety planning and administration efforts;

(6) 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 and Section 1906;

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

(8) Ensure that the State highway safety program meets the requirements of 23 U.S.C. Chapter 4, Section 1906 and applicable Federal and State laws, including but not limited to the standards for financial management systems required under 2 CFR 200.302 and internal controls required under 2 CFR 200.303;

(9) 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;

(10) Track and maintain current knowledge of changes in State statutes or regulations that could affect State qualification for highway safety grants or transfer programs;

(11) Coordinate the HSP 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 SHSP as defined in 23 U.S.C. 148(a); and

(12) Administer Federal grant funds in accordance with Federal and State requirements, including 2 CFR parts 200 and 1201.

§ 1300.5 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

§ 1300.10 General.

To apply for any highway safety grant under 23 U.S.C. Chapter 4 and Section 1906, a State shall submit electronically a Highway Safety Plan meeting the requirements of this subpart.

§ 1300.11 Contents.

The State's Highway Safety Plan documents a State's highway safety program that is data-driven in establishing performance targets and selecting the countermeasure strategies, planned activities and projects to meet performance targets. Each fiscal year, the State shall submit a HSP, consisting of the following components:

(a) *Highway safety planning process.* (1) Description of the data sources and processes used by the State to identify its highway safety problems, describe its highway safety performance measures, establish its performance targets, and develop and select evidence-based countermeasure strategies and projects to address its problems and achieve its performance targets;

(2) Identification of the participants in the processes (*e.g.,* highway safety committees, program stakeholders, community and constituent groups);

(3) Description and analysis of the State's overall highway safety problems as identified through an analysis of data, including but not limited to fatality, injury, enforcement, and judicial data, to be used as a basis for setting performance targets, selecting countermeasure strategies, and developing projects;

(4) Discussion of the methods for project selection (*e.g.,* constituent outreach, public meetings, solicitation of proposals);

(5) List of information and data sources consulted; and

(6) Description of the outcomes from the coordination of the HSP, data collection, and information systems with the State SHSP.

(b) *Performance report.* A program-area-level report on the State's progress towards meeting State performance targets from the previous fiscal year's HSP.

(c) *Performance plan.* (1) List of quantifiable and measurable highway safety performance targets that are data-driven, consistent with the Uniform Guidelines for Highway Safety Programs and based on highway safety problems

identified by the State during the planning process conducted under paragraph (a) of this section.

(2) All performance measures developed by NHTSA in collaboration with the Governors Highway Safety Association (''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025)), as revised in accordance with 23 U.S.C. 402(k)(5) and published in the **Federal Register**, which must be used as minimum measures in developing the performance targets identified in paragraph (c)(1) of this section, provided that—

(i) 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 toward meeting the quantifiable annual target;

(ii) For each program area performance measure, the State shall provide—

(A) Quantifiable performance targets; and

(B) Justification for each performance target that explains how the target is data-driven, including a discussion of the factors that influenced the performance target selection; and

(iii) State HSP performance targets are identical to the State DOT targets for common performance measures (fatality, fatality rate, and serious injuries) reported in the HSIP annual report, as coordinated through the State SHSP. These performance measures shall be based on a 5-year rolling average that is calculated by adding the number of fatalities or number of serious injuries as it pertains to the performance measure for the most recent 5 consecutive calendar years ending in the year for which the targets are established. The ARF may be used, but only if final FARS is not yet available. The sum of the fatalities or sum of serious injuries is divided by five and then rounded to the tenth decimal place for fatality or serious injury numbers and rounded to the thousandth decimal place for fatality rates.

(3) Additional performance measures not included under paragraph (c)(2) of this section. For program areas where performance measures have not been jointly developed (*e.g.*, distracted driving, drug-impaired driving) for which States are using HSP funds, the State shall develop its own performance measures and performance targets that are data-driven, and shall provide the same information as required under paragraph (c)(2) of this section.

(d) *Highway safety program area problem identification, countermeasure strategies, planned activities and funding.* (1) Description of each program area countermeasure strategy that will help the State complete its program and achieve specific performance targets described in paragraph (c) of this section, including, at a minimum—

(i) An assessment of the overall projected traffic safety impacts of the countermeasure strategies chosen and of the planned activities to be funded; and

(ii) A description of the linkage between program area problem identification data, performance targets, identified countermeasure strategies and allocation of funds to planned activities.

(2) Description of each planned activity within the countermeasure strategies in paragraph (d)(1) of this section that the State plans to implement to reach the performance targets identified in paragraph (c) of this section, including, at a minimum—

(i) A list and description of the planned activities that the State will conduct to support the countermeasure strategies within each program area to address its problems and achieve its performance targets; and

(ii) For each planned activity (*i.e.,* types of projects the State *plans* to conduct), a description, including intended subrecipients, Federal funding source, eligible use of funds, and estimates of funding amounts, amount for match and local benefit.

(3) Rationale for selecting the countermeasure strategy and funding allocation for each planned activity described in paragraph (d)(2) of this section (e.g., program assessment recommendations, participation in national mobilizations, emerging issues). The State may also include information on the cost effectiveness of proposed countermeasure strategies, if such information is available.

(4) For innovative countermeasure strategies (*i.e.,* countermeasure strategies that are not evidence-based), justification supporting the countermeasure strategy, including research, evaluation and/or substantive anecdotal evidence, that supports the potential of the proposed innovative countermeasure strategy.

(5) Evidence-based traffic safety enforcement program (TSEP) to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, provided that—

(i) The State shall identify the planned activities that collectively constitute a data-driven TSEP and include—

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

(B) An explanation of the deployment of resources based on that analysis.

(ii) The State shall describe how it plans to monitor the effectiveness of enforcement activities, make ongoing adjustments as warranted by data, and update the countermeasure strategies and planned activities in the HSP, as applicable, in accordance with this part.

(6) The planned high-visibility enforcement (HVE) strategies to support national mobilizations. The State shall 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 in accordance with 23 U.S.C. 404. The planned high-visibility enforcement strategies to support the national mobilizations shall include not less than three mobilization campaigns in each fiscal year to reduce alcohol-impaired or drug-impaired operation of motor vehicles and increase use of seatbelts by occupants of motor vehicles.

(e) *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 planned activities, including the amount and types of Federal funding requested, the State match, local benefit as applicable, appropriate eligible use of funds, and applicable performance target that the State will conduct as part of the Teen Traffic Safety Program—a Statewide program to improve traffic safety for teen drivers. Planned activities must meet the eligible use requirements of 23 U.S.C. 402(m)(2).

(f) *Certifications and assurances.* The Certifications and Assurances for 23 U.S.C. Chapter 4 and Section 1906 grants contained in appendix A, signed by the Governor's Representative for Highway Safety, certifying to the HSP application contents and performance conditions and providing assurances that the State will comply with applicable laws, and financial and programmatic requirements.

(g) *Section 405 grant and racial profiling data collection grant application.* Application for any of the national priority safety program grants and the racial profiling data collection grant, in accordance with the requirements of subpart C and as provided in Appendix B, signed by the Governor's Representative for Highway Safety.

§ 1300.12 Due date for submission.

(a) A State shall submit its Highway Safety Plan electronically to NHTSA no later than 11:59 p.m. EDT on July 1 preceding the fiscal year to which the HSP 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 a Section 405 or racial profiling data collection grant.

§ 1300.13 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 § 1300.14 of this part shall be deemed to incorporate these conditions:

(a) *Planning and administration (P & A) 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 15 percent of the total funds the State receives under Section 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 the provisions of P & A requirements. NHTSA funds shall be used only to fund P & A activities attributable to NHTSA programs. Determinations of P & A shall be in accordance with the provisions of Appendix D.

(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) *Prohibition on use of grant funds to check for helmet usage.* Grant funds under this part shall not be used for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

(c) *Prohibition on use of grant funds for automated traffic enforcement systems.* The State may not expend funds apportioned to the State under Section 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 that 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.

(d) *Biennial survey of State automated traffic enforcement systems.* (1) Beginning with fiscal year 2018 Highway Safety Plans and biennially thereafter, the State must either—

(i) Certify, as provided in Appendix A, that automated traffic enforcement systems are not used on any public road in the State; or

(ii)(A) Conduct a survey during the fiscal year of the grant meeting the requirements of paragraph (d)(2) of this section and provide assurances, as provided in Appendix A, that it will do so; and

(B) Submit the survey results to the NHTSA Regional Office no later than March 1 of the fiscal year of the grant.

(2) *Survey contents.* The survey shall include information about automated traffic enforcement systems installed in the State. The survey shall include:

(i) List of automated traffic enforcement systems in the State;

(ii) Adequate data to measure the transparency, accountability, and safety attributes of each automated traffic enforcement system; and

(iii) Comparison of each automated traffic enforcement system with—

(A) ''Speed Enforcement Camera Systems Operational Guidelines'' (DOT HS 810 916); and

(B) ''Red Light Camera Systems Operational Guidelines'' (FHWA–SA–05–002).

§ 1300.14 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 a Section 405 or Section 1906 grant application may result in a State's disqualification from consideration for a Section 405 or Section 1906 grant.

(b) *Approval or disapproval of Highway Safety Plan.* Within 45 days after receipt of the HSP under this subpart—

(1) For Section 402 grants, the Regional Administrator shall issue—

(i) A letter of approval, with conditions, if any, to the Governor's Representative for Highway Safety; or

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

(2) For Section 405 and Section 1906 grants, the NHTSA Administrator shall notify States in writing of grant awards and specify any conditions or limitations imposed by law on the use of funds.

(c) *Resubmission of disapproved Highway Safety Plan.* The Regional Administrator shall issue a letter of approval or disapproval within 30 days after receipt of a revised HSP resubmitted as provided in paragraph (b)(1)(ii) of this section.

§ 1300.15 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 and Section 1906 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 and Section 1906 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 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 § 1300.41(b), after which the funds shall lapse.

(d) Notwithstanding the provisions of paragraph (c) of this section, payment of State expenses of 23 U.S.C. Chapter 4 or Section 1906 funds shall be contingent upon the State's submission of up-to-date information about approved projects in the HSP, in accordance with §§ 1300.11(d) and 1300.32.

Subpart C—National Priority Safety Program and Racial Profiling Data Collection Grants

§ 1300.20 General.

(a) *Scope.* This subpart establishes criteria, in accordance with Section 405 for awarding grants to States that adopt and implement programs and statutes to address national priorities for reducing highway deaths and injuries and, in accordance with Section 1906, for awarding grants to States that maintain and allow public inspection of race and ethnic information on motor vehicle stops.

(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.

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 and application*—(1) *Eligibility.* Except as provided in § 1300.25(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 grants identified under this subpart.

(2) *Application.* For all grants under Section 405 and Section 1906—

(i) The Governor's Representative for Highway Safety, on behalf of the State, shall sign and submit with the Highway Safety Plan, the information required under Appendix B—Application Requirements for Section 405 and Section 1906 Grants.

(ii) If the State is relying on specific elements of the HSP as part of its application materials for grants under this subpart, the State shall identify the specific location in the HSP.

(d) *Qualification based on State statutes.* Whenever a qualifying State statute is the basis for a grant awarded 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 § 1300.26(h), the amount of a grant awarded to a State in a fiscal year under Section 405 or Section 1906 shall be in proportion to the amount each such State received under Section 402 for fiscal year 2009.

(2) Notwithstanding paragraph (e)(1) of this section, and except as provided in §§ 1300.25(k) and 1300.28(c)(2), a grant awarded to a State in a fiscal year under Section 405 may not exceed 10 percent of the total amount made available for that subsection for that fiscal year.

(3) If it is determined after review of applications that funds for a grant program under Section 405 will not all be distributed, such funds shall be transferred to Section 402 and shall be distributed in proportion to the amount each State received under Section 402 for fiscal year 2009 to ensure, to the maximum extent practicable, that all funding is distributed.

(f) *Matching.* (1) Except as provided in paragraph (f)(2) of this section, the Federal share of the costs of activities or programs funded with grants awarded under this subpart may not exceed 80 percent.

(2) The Federal share of the costs of activities or programs funded with grants awarded to the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent.

§ 1300.21 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 improperly 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 NHTSA 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, 2016, the ''previous calendar year'' would be 2015).

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, 2016, the ''previous calendar year'' would be 2015).

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.

(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 as part of its HSP the following documentation, in accordance with Part 1 of Appendix B:

(1) *Occupant protection plan.* State occupant protection program area plan that identifies the safety problems to be addressed, performance measures and targets, and the countermeasure strategies and planned activities the State will implement to address those problems, at the level of detail required under § 1300.11(c) and (d).

(2) *Participation in Click-it-or-Ticket national mobilization.* Description of the State's planned participation in the Click it or Ticket national mobilization, including a list of participating agencies during the fiscal year of the grant, as required under § 1300.11(d)(6);

(3) *Child restraint inspection stations.* (i) Countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), demonstrating an active network of child passenger safety inspection stations and/or inspection events based on the State's problem identification. The description must include estimates

for the following requirements in the upcoming fiscal year:

(A) The total number of planned inspection stations and/or events in the State; and

(B) Within the total in paragraph (d)(3)(i)(A) of this section, the number of planned inspection stations and/or inspection events serving each of the following population categories: urban, rural, and at-risk.

(ii) Certification, signed by the Governor's Representative for Highway Safety, that the inspection stations/events are staffed with at least one current nationally Certified Child Passenger Safety Technician.

(4) *Child passenger safety technicians.* Countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), for recruiting, training and maintaining a sufficient number of child passenger safety technicians based on the State's problem identification. The description must include, at a minimum, an estimate of the total number of classes and the estimated total number of technicians to be trained in the upcoming fiscal year to ensure coverage of child passenger safety inspection stations and inspection events by nationally Certified Child Passenger Safety Technicians.

(5) *Maintenance of effort.* The assurance in Part 1 of Appendix B that the lead State agency responsible for occupant protection programs shall maintain its aggregate expenditures for occupant protection programs at or above the average level of such expenditures in fiscal years 2014 and 2015.

(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 paragraph (d) of this section, and submit as part of its HSP documentation demonstrating that it meets at least three of the following additional criteria, in accordance with Part 1 of Appendix B:

(1) *Primary enforcement seat belt use statute.* The State shall provide legal citations to the State law demonstrating that the State has enacted and is enforcing occupant protection statutes that make a violation of the requirement to be secured in a seat belt or child restraint a primary offense.

(2) *Occupant protection statute.* The State shall provide legal citations to State law demonstrating that the State has enacted and is enforcing occupant protection statutes that:

(i) Require—

(A) 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;

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

(C) A minimum fine of $25 per unrestrained occupant for a violation of the occupant protection statutes described in paragraph (e)(2)(i) of this section.

(ii) Notwithstanding paragraph (e)(2)(i) of this section, permit no exception from coverage except for—

(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; or

(F) Passengers in public and livery conveyances.

(3) *Seat belt enforcement.* The State shall identify the countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d)(5), demonstrating that the State conducts sustained enforcement (*i.e.,* a program of recurring efforts throughout the fiscal year of the grant to promote seat belt and child restraint enforcement), and that based on the State's problem identification, involves law enforcement agencies responsible for seat belt enforcement in geographic areas in which at least 70 percent of either the State's unrestrained passenger vehicle occupant fatalities occurred or combined fatalities and serious injuries occurred.

(4) *High risk population countermeasure programs.* The State shall identify the countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), demonstrating that the State will implement 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 program area plan required under paragraph (d)(1) of this section.

(5) *Comprehensive occupant protection program.* The State shall submit the following:

(i) Date of NHTSA-facilitated program assessment that was conducted within five years prior to the application due date that evaluates the occupant protection program for elements designed to increase seat belt use in the State;

(ii) Multi-year strategic plan based on input from Statewide stakeholders (task force) under which the State developed—

(A) *Data-driven performance targets* to improve occupant protection in the State, at the level of detail required under § 1300.11(c);

(B) *Countermeasure strategies* (such as enforcement, education, communication, policies/legislation, partnerships/outreach) designed to achieve the performance targets of the strategic plan, at the level of detail required under § 1300.11(d);

(C) *A program management strategy* that provides leadership and identifies the State official responsible for implementing various aspects of the multi-year strategic plan; 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 statutes, and accurate reporting of occupant protection system information on police accident report forms, at the level of detail required under § 1300.11(d)(5).

(iii) The name and title of the State's designated occupant protection coordinator responsible for managing the occupant protection program in the State, including developing the occupant protection program area of the HSP and overseeing the execution of the projects designated in the HSP; and

(iv) A list that contains the names, titles and organizations of the Statewide occupant protection task force membership that includes agencies and organizations that can help develop, implement, enforce and evaluate occupant protection programs.

(6) *Occupant protection program assessment.* The State shall identify the date of the NHTSA-facilitated assessment of all elements of its occupant protection program, which

must have been conducted within three years prior to the application due date.

(f) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraph (f)(2) of this section, a State may use grant funds awarded under 23 U.S.C. 405(b) for the following programs or purposes only:

(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 about occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; or

(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) *Special rule—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 elect to use up to 100 percent of grant funds awarded under this section for any eligible project or activity under Section 402.

§ 1300.22 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) *Qualification criteria.* To qualify for a grant under this section in a fiscal year, a State shall submit as part of its HSP the following documentation, in accordance with part 2 of appendix B:

(1) *Traffic records coordinating committee (TRCC).* The State shall submit—

(i) At least three meeting dates of the TRCC during the 12 months immediately preceding the application due date;

(ii) Name and title of the State's Traffic Records Coordinator;

(iii) List of TRCC members by name, title, home organization and the core safety database represented, provided that at a minimum, at least one member represents each of the following core safety databases:

(A) Crash;

(B) Citation or adjudication;

(C) Driver;

(D) Emergency medical services or injury surveillance system;

(E) Roadway; and

(F) Vehicle.

(2) *State traffic records strategic plan.* The State shall submit a Strategic Plan, approved by the TRCC, that—

(i) Describes specific, quantifiable and measurable improvements, as described in paragraph (b)(3) of this section, that are 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;

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

(iii) Identifies which recommendations identified under paragraph (b)(2)(ii) of this section the State intends to address in the fiscal year, the countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), that implement each recommendation, and the performance measures to be used to demonstrate quantifiable and measurable progress; and

(iv) Identifies which recommendations identified under paragraph (b)(2)(ii) of this section the State does not intend to address in the fiscal year and explains the reason for not implementing the recommendations.

(3) *Quantitative improvement.* The State shall demonstrate quantitative improvement in the data attribute of accuracy, completeness, timeliness, uniformity, accessibility or integration of a core database by providing—

(i) A written description of the performance measures that clearly identifies which performance attribute for which core database the State is relying on to demonstrate progress using the methodology set forth in the ''Model Performance Measures for State Traffic Records Systems'' (DOT HS 811 441), as updated; and

(ii) Supporting documentation covering a contiguous 12-month performance period starting no earlier than April 1 of the calendar year prior to the application due date, that demonstrates quantitative improvement when compared to the comparable 12-month baseline period.

(4) *State highway safety data and traffic records system assessment.* The State shall identify the date of the assessment of the State's highway safety data and traffic records system that was conducted or updated within the five years prior to the application due date and that complies with the procedures and methodologies outlined in NHTSA's ''Traffic Records Highway Safety Program Advisory'' (DOT HS 811 644), as updated.

(c) *Requirement for maintenance of effort.* The State shall submit the assurance in part 2 of appendix B that the lead State agency responsible for State traffic safety information system improvements programs shall maintain its aggregate expenditures for State traffic safety information system improvements programs at or above the average level of such expenditures in fiscal years 2014 and 2015.

(d) *Use of grant funds.* A State may use grant funds awarded under 23 U.S.C. 405(c) to make quantifiable, measurable progress improvements in the accuracy, completeness, timeliness, uniformity, accessibility or integration of data in a core highway safety database.

§ 1300.23 Impaired driving countermeasures 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; that enact alcohol-ignition interlock laws; or that implement 24–7 sobriety programs.

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

24–7 sobriety program means a State law or program that authorizes a State court or an agency with jurisdiction, as a condition of bond, sentence, probation, parole, or work permit, to require an individual who was arrested for, pleads guilty to or was convicted of

driving under the influence of alcohol or drugs to—

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

(ii) Be subject to testing for alcohol or drugs at least twice per day at a testing location, by continuous transdermal alcohol monitoring via an electronic monitoring device, by drug patch, by urinalysis, by ignition interlock monitoring (provided the interlock is able to require tests twice a day without vehicle operation), by other types of electronic monitoring, 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-range State means a State that has an average impaired driving fatality rate of 0.60 or higher.

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.

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.

Restriction on driving privileges means any type of State-imposed limitation, such as a license revocation or suspension, location restriction, alcohol-ignition interlock device, or alcohol use prohibition.

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 statute 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 paragraph (d), (e), or (f) of this section, as applicable. Independent of qualification on the basis of range, a State may also qualify for separate grants under this section as a State with an alcohol-ignition interlock law, as provided in paragraph (g) of this section, or as a State with a 24–7 sobriety program, as provided in paragraph (h) 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 as part of its HSP the assurances in part 3 of Appendix B that—

(1) The State shall use the funds awarded under 23 U.S.C. 405(d)(1) only for the implementation and enforcement of programs authorized in paragraph (j) of this section; and

(2) The lead State agency responsible for impaired driving programs shall maintain its aggregate expenditures for impaired driving programs at or above the average level of such expenditures in fiscal years 2014 and 2015.

(e) *Qualification criteria for a mid-range State.* (1) To qualify for an Impaired Driving Countermeasures Grant in a fiscal year, a mid-range State (as determined by NHTSA) shall submit as part of its HSP the assurances required in paragraph (d) of this section and a copy of a Statewide impaired driving plan that contains the following information, in accordance with part 3 of appendix B:

(i) Section that describes the authority and basis for the operation of the Statewide impaired driving task force, including the process used to develop and approve the plan and date of approval;

(ii) List that contains names, titles and organizations of all task force members, provided that the task force includes key stakeholders from the State highway safety agency, law enforcement and the criminal justice system (*e.g.,* prosecution, adjudication, probation) and, as determined appropriate by the State, representatives from areas such as 24–7 sobriety programs, driver licensing, treatment and rehabilitation, ignition interlock programs, data and traffic records, public health and communication;

(iii) Strategic plan based on the most recent version of Highway Safety Program Guideline No. 8—Impaired Driving, which, at a minimum, covers the following—

(A) Prevention;

(B) Criminal justice system;

(C) Communication programs;

(D) Alcohol and other drug misuse, including screening, treatment, assessment and rehabilitation; and

(E) Program evaluation and data.

(2) *Previously submitted plan.* A mid-range State that has received a grant for a previously submitted Statewide impaired driving plan under paragraph (e)(1) or (f)(1) of this section that was developed and approved within three years prior to the application due date may, in lieu of submitting the plan required under paragraph (e)(1) of this section, submit the assurances required in paragraph (d) of this section and a separate assurance that the State continues to use the previously submitted plan.

(f) *Qualification criteria for a high-range State.* (1) To qualify for an Impaired Driving Countermeasures Grant in a fiscal year, a high-range State (as determined by NHTSA) shall submit as part of its HSP the assurances required in paragraph (d) of this section, the date of a NHTSA-facilitated assessment of the State's impaired driving program conducted within three years prior to the application due date, a copy of a Statewide impaired driving

plan that contains the information required in paragraphs (e)(1)(i) through (iii) of this section and that includes the following additional information, in accordance with part 3 of appendix B:

(i) Review that addresses in each plan area any related recommendations from the assessment of the State's impaired driving program;

(ii) Planned activities, in detail, for spending grant funds on impaired driving activities listed in paragraph (j)(4) of this section that must include high-visibility enforcement efforts, at the level of detail required under § 1300.11(d); and

(iii) Description of how the spending supports the State's impaired driving program and achievement of its performance targets, at the level of detail required under § 1300.11(d).

(2) *Previously submitted plans.* If a high-range State has received a grant for a previously submitted Statewide impaired driving plan under paragraph (f)(1) of this section, in order to receive a grant, the State may submit the assurances required in paragraph (d) of this section, and provide updates to its Statewide impaired driving plan that meet the requirements of paragraphs (e)(1)(i) through (iii) of this section and updates to its assessment review and spending plan that meet the requirements of paragraphs (f)(1)(i) through (iii) of this section.

(g) *Grants to States with Alcohol-Ignition Interlock Laws.* (1) To qualify for an alcohol-ignition interlock law grant, a State shall submit as part of its HSP legal citation(s), in accordance with part 4 of appendix B, to State statute demonstrating that the State has enacted and is enforcing a statute that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to drive only motor vehicles with alcohol-ignition interlocks for an authorized period of not less than 6 months.

(2) *Permitted exceptions.* A State statute providing for the following exceptions, and no others, shall not be deemed out of compliance with the requirements of paragraph (g)(1) of this section:

(i) The individual is required to operate an employer's motor vehicle in the course and scope of employment and the business entity that owns the vehicle is not owned or controlled by the individual;

(ii) The individual is certified in writing by a physician as being unable to provide a deep lung breath sample for analysis by an ignition interlock device; or

(iii) A State-certified ignition interlock provider is not available within 100 miles of the individual's residence.

(h) *Grants to States with a 24–7 Sobriety Program.* To qualify for a 24–7 Sobriety program grant, a State shall submit the following as part of its HSP, in accordance with part 5 of appendix B:

(1) Legal citation(s) to State statute demonstrating that the State has enacted and is enforcing a statute that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to receive a restriction on driving privileges, unless an exception in paragraph (g)(2) of this section applies, for a period of not less than 30 days; and

(2) Legal citation(s) to State statute or submission of State program information that authorizes a Statewide 24–7 sobriety program.

(i) *Award.* (1) The amount available for grants under paragraphs (d) through (f) of this section shall be determined based on the total amount of eligible States for these grants and after deduction of the amounts necessary to fund grants under 23 U.S.C. 405(d)(6).

(2) The amount available for grants under 23 U.S.C. 405(d)(6)(A) shall not exceed 12 percent of the total amount made available to States under 23 U.S.C. 405(d) for the fiscal year.

(3) The amount available for grants under 23 U.S.C. 405(d)(6)(B) shall not exceed 3 percent of the total amount made available to States under 23 U.S.C. 405(d) for the fiscal year.

(j) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraphs (j)(2) through (5) of this section, a State may use grant funds awarded under 23 U.S.C. 405(d) only for the following 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, drugs or the combination of alcohol and drugs;

(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 and drug screening and brief intervention;

(viii) Training for and implementation of impaired driving assessment programs or other tools designed to increase the probability of identifying the recidivism risk of a person convicted of driving under the influence of alcohol, drugs, or a combination of alcohol and drugs and to determine the most effective mental health or substance abuse treatment or sanction that will reduce such risk;

(ix) Developing impaired driving information systems; or

(x) Costs associated with a 24–7 sobriety program.

(2) *Special rule—low-range States.* Notwithstanding paragraph (j)(1) of this section, a State that qualifies for grant funds as a low-range State may elect to use—

(i) Grant funds awarded under 23 U.S.C. 405(d) for programs designed to reduce impaired driving based on problem identification, in accordance with § 1300.11; and

(ii) Up to 50 percent of grant funds awarded under 23 U.S.C. 405(d) for any eligible project or activity under Section 402.

(3) *Special rule—mid-range States.* Notwithstanding paragraph (j)(1) of this section, a State that qualifies for grant funds as a mid-range State may elect to use grant funds awarded under 23 U.S.C. 405(d) for programs designed to reduce impaired driving based on problem identification in accordance with § 1300.11, provided the State receives advance approval from NHTSA.

(4) *Special rule—high-range States.* Notwithstanding paragraph (j)(1) of this section, a high-range State may use grant funds awarded under 23 U.S.C. 405(d) only for—

(i) High-visibility enforcement efforts; and

(ii) Any of the eligible uses described in paragraph (j)(1) of this section or programs designed to reduce impaired driving based on problem identification, in accordance with § 1300.11, if all proposed uses are described in a Statewide impaired driving plan submitted to and approved by NHTSA

in accordance with paragraph (f) of this section.

(5) *Special rule—States with Alcohol-Ignition Interlock Laws or 24–7 Sobriety Programs.* Notwithstanding paragraph (j)(1) of this section, a State may elect to use grant funds awarded under 23 U.S.C. 405(d)(6) for any eligible project or activity under Section 402.

§ 1300.24 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 a statute prohibiting distracted driving.

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

Driving means operating a motor vehicle on a public road, and 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, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

(c) *Qualification criteria for a Comprehensive Distracted Driving Grant.* To qualify for a Comprehensive Distracted Driving Grant in a fiscal year, a State shall submit as part of its HSP, in accordance with Part 6 of Appendix B—

(1) Sample distracted driving questions from the State's driver's license examination; and

(2) Legal citations to the State statute demonstrating compliance with the following requirements:

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

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

(B) Make a violation of the statute a primary offense;

(C) Establish a minimum fine of $25 for a violation of the statute; and

(D) Not include an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic.

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

(A) Prohibit a driver who is younger than 18 years of age or in the learner's permit or intermediate license stage set forth in § 1300.26(d) and (e) from using a personal wireless communications device while driving;

(B) Make a violation of the statute a primary offense;

(C) Establish a minimum fine of $25 for a violation of the statute; and

(D) Not include an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic.

(iii) *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:

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

(B) 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; or

(C) 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 funds for Comprehensive Distracted Driving Grants*—(1) *Eligible uses.* Except as provided in paragraphs (d)(2) and (3) of this section, a State may use grant funds awarded under 23 U.S.C. 405(e)(1) only to educate the public through advertising that contains 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) *Special rule.* Notwithstanding paragraph (d)(1) of this section, a State may elect to use up to 50 percent of the grant funds awarded under 23 U.S.C. 405(e)(1) for any eligible project or activity under Section 402.

(3) *Special rule—MMUCC conforming States.* Notwithstanding paragraphs (d)(1) and (2) of this section, a State may use up to 75 percent of amounts received under 23 U.S.C. 405(e)(1) for any eligible project or activity under Section 402 if the State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria (MMUCC). To demonstrate conformance with MMUCC, the State shall submit within 30 days after notification of award, the NHTSA-developed MMUCC Mapping spreadsheet, as described in ''Mapping to MMUCC: A process for comparing police crash reports and state crash databases to the Model Minimum Uniform Crash Criteria'' (DOT HS 812 184), as updated.

(e)–(f) [Reserved]

§ 1300.25 Motorcyclist safety grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(f), 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—

Data State means 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.

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.

Law State means 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 and no statute or regulation diverting any of those fees.

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.

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 as part of its HSP documentation demonstrating compliance with at least two of the criteria in paragraphs (e) through (j) of this section.

(e) *Motorcycle rider training course.* 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. To demonstrate compliance with this criterion, the State shall submit, in accordance with part 7 of appendix B—

(1) A certification identifying the head of the designated State authority over motorcyclist safety issues and stating that the head of the designated State authority over motorcyclist safety issues has approved and the State has adopted one of the following introductory rider curricula:

(i) Motorcycle Safety Foundation Basic Rider Course;

(ii) TEAM OREGON Basic Rider Training;

(iii) Idaho STAR Basic I;

(iv) California Motorcyclist Safety Program Motorcyclist Training Course;

(v) A curriculum that has been approved by the designated State authority and NHTSA as meeting NHTSA's Model National Standards for Entry-Level Motorcycle Rider Training; and

(2) A list of the counties or political subdivisions in the State where motorcycle rider training courses will be conducted during the fiscal year of the grant and the number of registered motorcycles in each such county or political subdivision according to official State motor vehicle records, provided the State must offer at least one motorcycle rider training course in counties or political subdivisions that collectively account for a majority of the State's registered motorcycles.

(f) *Motorcyclist awareness program.* 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. To demonstrate compliance with this criterion, the State shall submit, in accordance with part 7 of appendix B—

(1) A certification identifying head of the designated State authority over motorcyclist safety issues and stating that the State's motorcyclist awareness program was developed by or in coordination with the designated State authority over motorcyclist safety issues; and

(2) One or more performance measures and corresponding performance targets developed for motorcycle awareness at the level of detail required under § 1300.11(c) that identifies, using State crash data, the counties or political subdivisions within the State with the highest number of motorcycle crashes involving a motorcycle and another motor vehicle. Such data shall be from the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date (*e.g.,* for a grant application submitted on July 1, 2016, a State shall provide calendar year 2015 data, if available, and may not provide data older than calendar year 2013); and

(3) Countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), demonstrating that the State will implement data-driven programs in a majority of counties or political subdivisions where the incidence of crashes involving a motorcycle and another motor vehicle is highest. The State shall submit a list of counties or political subdivisions in the State ranked in order of the highest to lowest number of crashes involving a motorcycle and another motor vehicle per county or political subdivision. Such data shall be from the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date (*e.g.,* for a grant application submitted on July 1, 2016, a State shall provide calendar year 2015 data, if available, and may not provide data older than calendar year 2013). The State shall select countermeasure strategies and planned activities to address the State's motorcycle safety problem areas in order to meet the performance targets identified in paragraph (f)(2) of this section.

(g) *Reduction of fatalities and crashes involving motorcycles.* A State shall demonstrate a reduction for the preceding calendar year in the number of motorcyclist fatalities 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. To demonstrate compliance a State shall, in accordance with part 7 of appendix B—

(1) Submit in its HSP, State data and a description of the State's methods for collecting and analyzing the 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 are available, but data no older than three calendar years prior to the application due date and the same type of data for the calendar year immediately prior to that calendar year (*e.g.,* for a grant application submitted on July 1, 2016, the State shall submit calendar year 2015 data and 2014 data, if both data are available, and may not provide data older than calendar year 2013 and 2012, to determine the rate);

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

(3) 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 are available, but data no older than three calendar years prior to the application due date, as compared to the calendar year immediately prior to that year.

(h) *Impaired driving program.* A State shall implement a Statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation. The State shall submit, in accordance with part 7 of appendix B—

(1) One or more performance measures and corresponding performance targets developed to reduce impaired motorcycle operation at the level of detail required under § 1300.11(c). Each performance measure and performance target shall identify the impaired motorcycle operation problem area to be addressed. Problem identification must include an analysis of motorcycle crashes involving an impaired operator by county or political subdivision in the State; and

(2) Countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), demonstrating that the State will implement data-driven programs designed to reach motorcyclists 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) based upon State data. Such data shall be from the most recent calendar year for which final State crash data are available, but data no older than three calendar years prior to the application due date (*e.g.,* for a grant application submitted on July 1, 2016, a State shall provide calendar year 2015 data, if available, and may not provide data older than calendar year 2013). Countermeasure strategies and planned activities shall prioritize the State's impaired motorcycle problem areas to meet the performance targets identified in paragraph (h)(1).

(i) *Reduction of fatalities and accidents involving impaired motorcyclists.* 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, in accordance with part 7 of appendix B—

(1) Submit in its HSP, State data and a description of the State's methods for collecting and analyzing the 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 are available, but data no older than three 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, 2016, the State shall submit calendar year 2015 data and 2014 data, if both data are available, and may not provide data older than calendar year 2013 and 2012, to determine the rate);

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

(3) 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 are available, but data no older than three calendar years prior to the application due date, as compared to the calendar year immediately prior to that year.

(j) *Use of fees collected from motorcyclists for motorcycle programs.* 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.

(1) To demonstrate compliance as a Law State, the State shall submit, in accordance with part 7 of appendix B, the legal citation to the statutes or regulations 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 citations 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.

(2) To demonstrate compliance as a Data State, the State shall submit, in accordance with part 7 of appendix B, 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 23 U.S.C. 405(f) may not exceed 25 percent of the amount apportioned to the State for fiscal year 2009 under Section 402.

(l) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraph (l)(2) of this section, a State may use grant funds awarded under 23 U.S.C. 405(f) only 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; or

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

(2) *Special rule—low fatality States.* Notwithstanding paragraph (l)(1) of this section, a State may elect to use up to 50 percent of grant funds awarded under 23 U.S.C. 405(f) for any eligible project or activity under Section 402 if the State is in the lowest 25 percent of all States for motorcycle deaths per 10,000 motorcycle registrations (using FHWA motorcycle registration data) based on the most recent calendar year for which final FARS data are available, as determined by NHTSA.

(3) *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.

§ 1300.26 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 a graduated driver's licensing statute that requires novice drivers younger than 18 years of age to comply with a 2-stage licensing process prior to receiving an unrestricted driver's license.

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

Driving-related offense means 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, misrepresentation of the individual's age, reckless driving, driving without wearing a seat belt, child restraint violation, speeding, prohibited use of a personal wireless communications device, violation of the driving-related restrictions applicable to the stages of the graduated driver's licensing process set forth in paragraphs (d) and (e) of this section, and moving violations. The term does not include offenses related to motor vehicle registration, insurance, parking, or the presence or functionality of motor vehicle equipment.

Licensed driver means an individual who possesses a valid unrestricted driver's license.

Unrestricted driver's license means full, non-provisional driver's licensure to operate a motor vehicle on public roadways.

(c) *Qualification criteria—General.* To qualify for a State Graduated Driver Licensing Incentive Grant in a fiscal year, a State shall provide as part of its HSP legal citations to State statute demonstrating compliance with the requirements provided in paragraphs (d), (e), and (f) of this section, in accordance with part 8 of appendix B.

(d) *Learner's permit stage.* A State's graduated driver's licensing statute shall include a learner's permit stage that—

(1) Applies to any driver, prior to being issued by the State any permit, license, or endorsement to operate a motor vehicle on public roadways other than a learner's permit, who—

(i) Is younger than 18 years of age; and

(ii) Has not been issued an intermediate license or unrestricted driver's license by any State;

(2) Commences only after an applicant for a learner's permit passes a vision test and a knowledge assessment (*e.g.,* written or computerized) covering the rules of the road, signs, and signals;

(3) Is in effect for a period of at least 6 months, and remains in effect until the learner's permit holder—

(i) Reaches at least 16 years of age and enters the intermediate stage; or

(ii) Reaches 18 years of age;

(4) Requires the learner's permit holder to be accompanied and supervised, at all times while operating a motor vehicle, by a licensed driver who is at least 21 years of age or is a State-certified driving instructor;

(5) Requires the learner's permit holder to either—

(i) Complete a State-certified driver education or training course; or

(ii) Receive at least 50 hours of behind-the-wheel training, with at least 10 of those hours at night, with a licensed driver who is at least 21 years of age or is a State-certified driving instructor;

(6) Prohibits the learner's permit holder from using a personal wireless communications device while driving (as defined in § 1300.24(b)), except as permitted under § 1300.24(c)(2)(iii), provided that the State's statute does not include an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic; and

(7) Requires that, in addition to any other penalties imposed by State statute, the duration of the learner's permit stage be extended if the learner's permit holder is convicted of a driving-related offense during the first 6 months of that stage.

(e) *Intermediate stage.* A State's graduated driver's licensing statute shall include an intermediate stage that—

(1) Commences—

(i) After an applicant younger than 18 years of age successfully completes the learner's permit stage;

(ii) Prior to the applicant being issued by the State another permit, license, or endorsement to operate a motor vehicle on public roadways other than an intermediate license; and

(iii) Only after the applicant passes a behind-the-wheel driving skills assessment;

(2) Is in effect for a period of at least 6 months, and remains in effect until the intermediate license holder reaches at least 17 years of age;

(3) Requires the intermediate license holder to be accompanied and supervised, while operating a motor vehicle between the hours of 10:00 p.m. and 5:00 a.m. during the first 6 months of the intermediate stage, by a licensed driver who is at least 21 years of age or is a State-certified driving instructor, except when operating a motor vehicle for the purposes of work, school, religious activities, or emergencies;

(4) Prohibits the intermediate license holder from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age or is a State-certified driving instructor is in the motor vehicle;

(5) Prohibits the intermediate license holder from using a personal wireless communications device while driving (as defined in § 1300.24(b)), except as permitted under § 1300.24(c)(2)(iii), provided that the State's statute does not include an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic; and

(6) Requires that, in addition to any other penalties imposed by State statute, the duration of the intermediate stage be extended if the intermediate license holder is convicted of a driving-related offense during the first 6 months of that stage.

(f) *Enforcement.* The minimum requirements described in paragraphs (d) and (e) of this section shall be enforced as primary offenses.

(g) *Exceptions.* A State that otherwise meets the minimum requirements set forth in paragraphs (d), (e), and (f) of this section will not be deemed ineligible for a grant under this section if—

(1) The State enacted a statute 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—

(i) 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

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

(2) A driver younger than 18 years of age who possesses only the permit or license described in paragraph (g)(1) of this section and applies for any other permit, license, or endorsement to operate a motor vehicle is subject to the graduated driver's licensing requirements of paragraphs (d), (e), and (f) of this section.

(h) *Award determination.* Subject to § 1300.20(e)(2), the amount of a grant award to a State in a fiscal year under 23 U.S.C. 405(g) shall be in proportion to the amount each such State received under Section 402 for that fiscal year.

(i) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraphs (i)(2) and (3) of this section, a State may use grant funds awarded under 23 U.S.C. 405(g) only as follows:

(i) To enforce the State's graduated driver's licensing process;

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

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

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

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

(2) *Special rule.* Notwithstanding paragraph (i)(1) of this section, a State may elect to use up to 75 percent of the grant funds awarded under 23 U.S.C. 405(g) for any eligible project or activity under Section 402.

(3) *Special rule—low fatality States.* Notwithstanding paragraphs (i)(1) and (2) of this section, a State may elect to use up to 100 percent of the grant funds awarded under 23 U.S.C. 405(g) for any eligible project or activity under Section 402 if the State is in the lowest 25 percent of all States for the number of drivers under age 18 involved in fatal crashes in the State as a percentage of the total number of drivers under age 18 in the State, as determined by NHTSA.

§ 1300.27 Nonmotorized safety grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(h), for awarding grants to States for the purpose of decreasing pedestrian and bicyclist fatalities and injuries that result from crashes involving a motor vehicle.

(b) *Eligibility determination.* A State is eligible for a grant under this section if the State's annual combined pedestrian and bicyclist fatalities exceed 15 percent of the State's total annual crash fatalities based on the most recent calendar year for which final FARS data are available, as determined by NHTSA.

(c) *Qualification criteria.* To qualify for a Nonmotorized Safety Grant in a fiscal year, a State meeting the eligibility requirements of paragraph (b) of this section shall submit as part of its HSP the assurances that the State shall use the funds awarded under 23 U.S.C. 405(h) only for the authorized uses identified in paragraph (d) of this

section, in accordance with part 9 of appendix B.

(d) *Use of grant funds.* A State may use grant funds awarded under 23 U.S.C. 405(h) only for—

(1) Training of law enforcement officials on State laws applicable to pedestrian and bicycle safety;

(2) Enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to pedestrian and bicycle safety; or

(3) Public education and awareness programs designed to inform motorists, pedestrians, and bicyclists of State traffic laws applicable to pedestrian and bicycle safety.

§ 1300.28 Racial profiling data collection grants.

(a) *Purpose.* This section establishes criteria, in accordance with Section 1906, for incentive grants to encourage States to maintain and allow public inspection of statistical information on the race and ethnicity of the driver for all motor vehicle stops made on all public roads except those classified as local or minor rural roads.

(b) *Qualification criteria.* To qualify for a Racial Profiling Data Collection Grant in a fiscal year, a State shall submit as part of its HSP, in accordance with part 10 of appendix B—

(1) Official documents (*i.e.,* a law, regulation, binding policy directive, letter from the Governor or court order) that demonstrate that the State maintains and allows public inspection of statistical information on the race and ethnicity of the driver for each motor vehicle stop made by a law enforcement officer on all public roads except those classified as local or minor rural roads; or

(2) The assurances that the State will undertake activities during the fiscal year of the grant to comply with the requirements of paragraph (b)(1) of this section, and countermeasure strategies and planned activities, at the level of detail required under § 1300.11(d), supporting the assurances.

(c) *Limitation.* (1) On or after October 1, 2015, a State may not receive a grant under paragraph (b)(2) of this section in more than 2 fiscal years.

(2) Notwithstanding § 1300.20(e)(2), the total amount of a grant awarded to a State under this section in a fiscal year may not exceed 5 percent of the funds available under this section in the fiscal year.

(d) *Use of grant funds.* A State may use grant funds awarded under Section 1906 only for the costs of—

(1) Collecting and maintaining data on traffic stops; or

(2) Evaluating the results of the data.

Subpart D—Administration of the Highway Safety Grants

§ 1300.30 General.

Subject to the provisions of this subpart, the requirements of 2 CFR parts 200 and 1201 govern the implementation and management of State highway safety programs and projects carried out under 23 U.S.C. Chapter 4 and Section 1906.

§ 1300.31 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 and Section 1906 will vest upon acquisition in the State or its subrecipient, as appropriate, subject to the conditions in paragraphs (b) through (d) of this section.

(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 Regional Administrator, and neither the State nor any of its subrecipients or contractors shall encumber the title or interest while such need exists.

(c) *Management and disposition.* Subject to the requirements of paragraphs (b), (d), (e), and (f) of this section, States and their subrecipients and contractors shall manage and dispose of equipment acquired under 23 U.S.C. Chapter 4 and Section 1906 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 Regional Administrator;

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

(e) *Right to transfer title.* The Regional Administrator may reserve the right to transfer title to equipment acquired under this part 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 Regional Administrator 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 2 CFR parts 200 and 1201.

(f) *Federally-owned equipment.* In the event a State or its subrecipient 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 by the State;

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

§ 1300.32 Amendments to Highway Safety Plans—approval by the Regional Administrator.

(a) During the fiscal year of the grant, States may amend the HSP, except performance targets, after approval under § 1300.14. States shall document changes to the HSP electronically.

(b) The State shall amend the HSP, prior to beginning project performance, to provide the following information about each project agreement it enters into:

(1) Project agreement number;

(2) Subrecipient;

(3) Amount of Federal funds; and

(4) Eligible use of funds.

(c) Amendments and changes to the HSP are subject to approval by the Regional Administrator before approval of vouchers for payment. Regional Administrators will disapprove changes and projects that are inconsistent with the HSP or that do not constitute an appropriate use of Federal funds.

§ 1300.33 Vouchers and project agreements.

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

(b) *Content of vouchers.* At a minimum, each voucher shall provide the following information, broken down by individual project agreement:

(1) Project agreement number for which work was performed and payment is sought;

(2) Amount of Federal funds sought, up to the amount identified in § 1300.32(b);

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

(4) 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 Regional Administrator upon request. Each project agreement shall bear the project agreement number to allow the Regional Administrator to match the voucher to the corresponding project.

(d) *Submission requirements.* At a minimum, vouchers shall be submitted to the Regional Administrator 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 for the fiscal year shall be submitted to the Regional Administrator no later than 90 days after the end of the fiscal year, and all unexpended balances shall be carried forward to the next fiscal year unless they have lapsed in accordance with § 1300.41.

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

(2) Vouchers that request payment for projects whose project agreement numbers or amounts claimed do not match the projects or exceed the estimated amount of Federal funds provided under § 1300.32, shall be rejected, in whole or in part, until an amended project and/or estimated amount of Federal funds is submitted to and approved by the Regional Administrator in accordance with § 1300.32.

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

§ 1300.34 [Reserved]

§ 1300.35 Annual report.

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

(a) An assessment of the State's progress in achieving performance targets identified in the prior year HSP, and a description of how the State will adjust its upcoming HSP to better meet performance targets if a State has not met its performance targets;

(b) A description of the projects and activities funded and implemented along with the amount of Federal funds obligated and expended under the prior year HSP;

(c) A description of the State's evidence-based enforcement program activities;

(d) Submission of information regarding mobilization participation (*e.g.,* participating and reporting agencies, enforcement activity, citation information, paid and earned media information);

(e) An explanation of reasons for planned activities that were not implemented; and

(f) A description of how the projects funded under the prior year HSP contributed to meeting the State's highway safety performance targets.

§ 1300.36 Appeals of written decision by a Regional Administrator.

The State shall submit an appeal of any written decision by a Regional Administrator regarding the administration of the grants in writing, signed by the Governor's Representative for Highway Safety, to the Regional Administrator. The Regional Administrator shall promptly forward the appeal 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 Regional Administrator.

Subpart E—Annual Reconciliation

§ 1300.40 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 HSP 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 § 1300.33(b) within 90 days after the expiration of the HSP. The final voucher constitutes the final financial reconciliation for each fiscal year.

(c) The Regional Administrator may extend the time period for no more than 30 days 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 Regional Administrator.

§ 1300.41 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 an HSP 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 State's new HSP has been approved by the Regional Administrator pursuant to § 1300.14 of this part, including any amendments to the HSP pursuant to § 1300.32.

(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 Regional Administrator.

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

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

§ 1300.42 Post-grant adjustments.

The expiration of an HSP 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.

§ 1300.43 Continuing requirements.

Notwithstanding the expiration of an HSP, the provisions in 2 CFR parts 200 and 1201 and 23 CFR part 1300, including but not limited to equipment and audit, continue to apply to the grant funds authorized under 23 U.S.C. Chapter 4 and Section 1906.

Subpart F—Non-Compliance

§ 1300.50 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 Section 1906, or with other applicable law, the sanctions in §§ 1300.51 and 1300.52, and any other sanctions or remedies permitted

under Federal law, including the specific conditions of 2 CFR 200.207 and 200.338, may be applied as appropriate.

§ 1300.51 Sanctions—reduction of apportionment.

(a) *Determination of sanctions.* (1) The Administrator shall not apportion any funds under Section 402 to any State that does not have or is not implementing an approved highway safety program.

(2) If the Administrator has apportioned funds under Section 402 to a State and subsequently determines that the State is not implementing an approved highway safety program, the Administrator shall reduce the apportionment by an amount equal to not less than 20 percent, until such time as the Administrator determines that the State is implementing an approved highway safety program. 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.

(i) When the Administrator determines that a State is not implementing an approved highway safety program, the Administrator shall issue to the State an advance notice, advising the State that the Administrator expects to withhold funds from apportionment or reduce the State's apportionment under Section 402. The Administrator shall state the amount of the expected withholding or reduction.

(ii) The State may, within 30 days after 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.

(b) *Apportionment of withheld funds.* (1) If the Administrator concludes that a State has begun implementing an approved highway safety program, the Administrator shall promptly apportion to the State the funds withheld from its apportionment, but not later than July 31 of the fiscal year for which the funds were withheld.

(2)(i) If the Administrator concludes, after reviewing all relevant documentation submitted by the State or if the State has not responded to the advance notice, that the State did not correct its failure to have or implement an approved highway safety program, the Administrator shall issue a final notice, advising the State of the funds being withheld from apportionment or of the reduction of apportionment under Section 402 by July 31 of the fiscal year for which the funds were withheld.

(ii) 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.

§ 1300.52 Sanctions—risk assessment and non-compliance.

(a) *Risk assessment.* (1) All States receiving funds under the grant programs authorized under 23 U.S.C. Chapter 4 and Section 1906 shall be subject to an assessment of risk by NHTSA. In evaluating risks of a State highway safety program, NHTSA may consider, but is not limited to considering, the following for each State:

(i) Financial stability;

(ii) Quality of management systems and ability to meet management standards prescribed in this part and in 2 CFR part 200;

(iii) History of performance. The applicant's record in managing funds received for grant programs under this part, including findings from Management Reviews;

(iv) Reports and findings from audits performed under 2 CFR part 200, subpart F, or from the reports and findings of any other available audits; and

(v) The State's ability to effectively implement statutory, regulatory, and other requirements imposed on non-Federal entities.

(2) If a State is determined to pose risk, NHTSA may increase monitoring activities and may impose any of the specific conditions of 2 CFR 200.207, as appropriate.

(b) *Non-compliance.* If at any time a State is found to be in non-compliance with the requirements of the grant programs under this part, the requirements of 2 CFR parts 200 and 1201, or with any other applicable law, the actions permitted under 2 CFR 200.207 and 200.338 may be applied as appropriate.

BILLING CODE 4910–59–P

Appendix A to Part 1300 – Certifications and Assurances for Highway Safety Grants (23 U.S.C. Chapter 4; Sec. 1906, Pub. L. 109-59, As Amended By Sec. 4011, Pub. L. 114-94)

[*Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State 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.*]

State: _____ Fiscal Year: _____

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

GENERAL REQUIREMENTS

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
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 – Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL 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 Subward and Executive Compensation Reporting,* August 27, 2010, (*https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf*) by reporting to FSRS.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 ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.,* 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies** Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.),* **and Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.),* (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the

programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);

- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;

- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;

- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;

- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;

- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

"During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;

b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;

c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

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

The State will provide a drug-free workplace by:

a. 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;
b. Establishing a drug-free awareness program to inform employees about:
    1. The dangers of drug abuse in the workplace;
    2. The grantee's policy of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation, and employee assistance programs;
    4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
    5. 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);
c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –

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

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

e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted –
   1. Taking appropriate personnel action against such an employee, up to and including termination;
   2. 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;

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

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.

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 Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

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 primary tier 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 tier 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 tier 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 or may pursue suspension or debarment.

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

5. The terms *covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. 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 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 entering into this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "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 and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

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 is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (*https://www.sam.gov/*).

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 the transaction for cause or default.

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

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

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions 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 records, 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 tier 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 Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

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 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, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. 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 "Instructions for Lower Tier Participant Certification" including the "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 and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

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 is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (*https://www.sam.gov/*).

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 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 participating in covered transactions 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.

BUY AMERICA ACT
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items 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. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

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 and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at

www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

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 vehicles 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.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the Highway Safety Plan in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.

2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for 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))

3. 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))

4. At least 40 percent 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 political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and for the benefit of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

5. 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))

6. 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))

7. 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 as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to –
        - Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
        - Increase use of seat belts by occupants of motor vehicles;
    - Submission of information regarding mobilization participation into the HVE Database;
    - 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, except for the Secretary of Interior on behalf of Indian tribes;
    - 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))

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

9. 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))

The State: **[*CHECK ONLY ONE*]**

□ Certifies that automated traffic enforcement systems are not used on any public road in the State;

OR

□ Is unable to certify that automated traffic enforcement systems are not used on any public road in the State, and therefore will conduct a survey meeting the requirements of 23 U.S.C. 402(c)(4)(C) AND will submit the survey results to the NHTSA Regional Office no later than March 1 of the fiscal year of the grant.

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

_____

Signature Governor's Representative for Highway Safety Date

_____

Printed name of Governor's Representative for Highway Safety

Appendix B to Part 1300 – Application Requirements for Section 405 and Section 1906 Grants

[*Each fiscal year, to apply for a grant under 23 U.S.C. 405 or Section 1906, Pub. L. 109-59, as amended by Section 4011, Pub. L. 114-94, the State must complete and submit all required information in this appendix, and the Governor's Representative for Highway Safety must sign the Certifications and Assurances.*]

State: _____ Fiscal Year: _____

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 GRANTS (23 CFR 1300.21)

[*Check the box above **only** if applying for this grant.*]

All States:

[*Fill in **all** blanks below.*]

- The lead State agency responsible for occupant protection programs will maintain its aggregate expenditures for occupant protection programs at or above the average level of such expenditures in fiscal years 2014 and 2015. (23 U.S.C. 405(a)(9))

- The State's occupant protection program area plan for the upcoming fiscal year is provided in the HSP at _____ (location).

- 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 in the HSP at _____ (location).

- Countermeasure strategies and planned activities demonstrating the State's active network of child restraint inspection stations are provided in the HSP at _____ (location). Such description includes estimates for: (1) the total number of planned inspection stations and events during the upcoming fiscal year; and (2) within that total, the number of planned inspection stations and events serving each of the following population categories: urban, rural, and at-risk. The planned inspection stations/events provided in the HSP are staffed with at least one current nationally Certified Child Passenger Safety Technician.

- Countermeasure strategies and planned activities, as provided in the HSP at _____ (location), that include estimates of the total number of classes and total number of technicians to be trained in the upcoming fiscal year to ensure coverage of child passenger safety inspection stations and inspection events by nationally Certified Child Passenger Safety Technicians.

Lower Seat Belt Use States Only:

[*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 _____ (date) and last amended on _____ (date), 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 _____ (date) and last amended on _____ (date), 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 countermeasure strategies and planned activities demonstrating the State's **seat belt enforcement plan** are provided in the HSP at _____ (location).

□ The countermeasure strategies and planned activities demonstrating the State's **high risk population countermeasure program** are provided in the HSP at _____ (location).

□ The State's **comprehensive occupant protection program** is provided as follows:

- Date of NHTSA-facilitated program assessment conducted within 5 years prior to the application date: _____ (date);
- Multi-year strategic plan: HSP at _____ (location);

- The name and title of the State's designated occupant protection coordinator is _____.
  _____
- List that contains the names, titles and organizations of the Statewide occupant protection task force membership: HSP at _____ (location).

□ The State's NHTSA-facilitated **occupant protection program assessment** of all elements of its occupant protection program was conducted on _____ (date) (within 3 years of the application due date);

□ PART 2: STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS GRANTS (23 CFR 1300.22)

[*Check the box above **only** if applying for this grant.*]

All States:

- The lead State agency responsible for traffic safety information system improvement programs will maintain its aggregate expenditures for traffic safety information system improvements programs at or above the average level of such expenditures in fiscal years 2014 and 2015. (23 U.S.C. 405(a)(9))

[*Fill in **all** blank for each bullet below.*]

- A list of at least 3 TRCC meeting dates during the 12 months preceding the application due date is provided in the HSP at _____ (location).

- The name and title of the State's Traffic Records Coordinator is _____
  _____.

- A list of the TRCC members by name, title, home organization and the core safety database represented is provided in the HSP at _____ (location).

- The State Strategic Plan is provided as follows:

  - Description of specific, quantifiable and measurable improvements: HSP at _____ (location);
  - List of all recommendations from most recent assessment: HSP at _____ (location);
  - Recommendations to be addressed, including countermeasure strategies and planned activities and performance measures: HSP at _____ (location);
  - Recommendations not to be addressed, including reasons for not implementing: HSP at _____ (location).

- 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 is provided in the HSP at _____ (location).

- The State's most recent assessment or update of its highway safety data and traffic records system was completed on _____ (date).

□ PART 3: IMPAIRED DRIVING COUNTERMEASURES (23 CFR 1300.23(D)-(F))

[*Check the box above **only** if applying for this grant.*]

All States:

- The lead State agency responsible for impaired driving programs will maintain its aggregate expenditures for impaired driving programs at or above the average level of such expenditures in fiscal years 2014 and 2015.

- 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 1300.23(j).

Mid-Range State Only:

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

□ The State submits its Statewide impaired driving plan approved by a Statewide impaired driving task force on _____ (date). Specifically –

- HSP at _____ (location) describes the authority and basis for operation of the Statewide impaired driving task force;
- HSP at _____ (location) contains the list of names, titles and organizations of all task force members;
- the HSP at _____ (location) contains the strategic plan based on Highway Safety Guideline No. 8 – Impaired Driving.

□ The State has previously submitted a Statewide impaired driving plan approved by a Statewide impaired driving task force on _____ (date) and continues to use this plan.

High-Range State Only:

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

□ The State submits its Statewide impaired driving plan approved by a Statewide impaired driving task force on _____ (date) that includes a review of a NHTSA-facilitated assessment of the State's impaired driving program conducted on _____ (date). Specifically, –

- HSP at _____ (location) describes the authority and basis for operation of the Statewide impaired driving task force;
- HSP at _____ (location) contains the list of names, titles and organizations of all task force members;
- HSP at _____ (location) contains the strategic plan based on Highway Safety Guideline No. 8 – Impaired Driving;
- HSP at_____ (location) addresses any related recommendations from the assessment of the State's impaired driving program;
- HSP at _____ (location) contains the planned activities, in detail, for spending grant funds;
- HSP at _____ (location) describes how the spending supports the State's impaired driving program and achievement of its performance targets.

□ The State submits an updated Statewide impaired driving plan approved by a Statewide impaired driving task force on _____ (date) and updates its assessment review and spending plan provided in the HSP at _____ (location).

□ PART 4: ALCOHOL-IGNITION INTERLOCK LAWS (23 CFR 1300.23(G))

[*Check the box above **only** if applying for this grant.*]

[*Fill in **all** blanks*.]

The State provides citations to a law that requires all individuals convicted of driving under the influence or of driving while intoxicated to drive only motor vehicles with alcohol-ignition interlocks for a period of 6 months that was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant. **Legal citation(s):** _____ _____.

□ PART 5: 24-7 SOBRIETY PROGRAMS (23 CFR 1300.23(H))

[*Check the box above **only** if applying for this grant.*]

[*Fill in **all** blanks.*]

The State provides citations to a law that requires all individuals convicted of driving under the influence or of driving while intoxicated to receive a restriction on driving privileges that was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant. **Legal citation(s):** _____ _____.

[*Check **at least one of the boxes** below and fill in **all** blanks under that checked box.*]

□ *Law citation.* The State provides citations to a law that authorizes a Statewide 24-7 sobriety program that was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant. **Legal citation(s):** _____ _____.

□ *Program information.* The State provides program information that authorizes a Statewide 24-7 sobriety program. The program information is provided in the HSP at _____ (location).

□ PART 6: DISTRACTED DRIVING GRANTS (23 CFR 1300.24)

[*Check the box above **only** if applying for this grant and fill in **all** blanks.*]

Comprehensive Distracted Driving Grant

- The State provides sample distracted driving questions from the State's driver's license examination in the HSP at _____ (location).

- **Prohibition on Texting While Driving**

  The State's texting ban statute, prohibiting texting while driving and requiring a minimum fine of at least $25, was enacted on _____ (date) and last amended on _____ (date), 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 an offense;
- _____ 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 and requiring a minimum fine of at least $25, was enacted on _____ (date) and last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

  Legal citations:

  - _____ Prohibition on youth cell phone use while driving;
  - _____ Definition of covered wireless communication devices;
  - _____ Minimum fine of at least $25 for an offense;
  - _____ Exemptions from youth cell phone use ban.

- The State has conformed its distracted driving data to the most recent Model Minimum Uniform Crash Criteria (MMUCC) and will provide supporting data (i.e., NHTSA-developed MMUCC Mapping spreadsheet) within 30 days after notification of award.

□ PART 7: MOTORCYCLIST SAFETY GRANTS (23 CFR 1300.25)

[*Check the box above **only** if applying for this grant.*]

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

□ Motorcycle riding training course:

- The name and organization of the head of the designated State authority over motorcyclist safety issues is _____.

- The head of the designated State authority over motorcyclist safety issues has approved and the State has adopted one of the following introductory rider curricula: [*Check at least one of the following boxes below and fill in any blanks.*]

  □ Motorcycle Safety Foundation Basic Rider Course;

□ TEAM OREGON Basic Rider Training;
□ Idaho STAR Basic I;
□ California Motorcyclist Safety Program Motorcyclist Training Course;
□ Other curriculum that meets NHTSA's Model National Standards for Entry-Level Motorcycle Rider Training and that has been approved by NHTSA.

- In the HSP at _____ (location), a list of counties or political subdivisions in the State where motorcycle rider training courses will be conducted during the fiscal year of the grant AND number of registered motorcycles in each such county or political subdivision according to official State motor vehicle records.

□ **Motorcyclist awareness program:**

- The name and organization of the head of the designated State authority over motorcyclist safety issues is _____.

- The State's motorcyclist awareness program was developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues.

- In the HSP at _____ (location), performance measures and corresponding performance targets developed for motorcycle awareness that identify, using State crash data, the counties or political subdivisions within the State with the highest number of motorcycle crashes involving a motorcycle and another motor vehicle.

- In the HSP at _____ (location), the countermeasure strategies and planned activities demonstrating that the State will implement data-driven programs in a majority of counties or political subdivisions where the incidence of crashes involving a motorcycle and another motor vehicle is highest, and a list that identifies, using State crash data, the counties or political subdivisions within the State ranked in order of the highest to lowest number of crashes involving a motorcycle and another motor vehicle per county or political subdivision.

□ **Reduction of fatalities and crashes involving motorcycles:**

- Data showing the total number of motor vehicle crashes involving motorcycles is provided in the HSP at _____ (location).

- Description of the State's methods for collecting and analyzing data is provided in the HSP at _____ (location).

□ **Impaired driving program:**

- In the HSP at _____ (location), performance measures and corresponding performance targets developed to reduce impaired motorcycle operation.

- In the HSP at _____ (location), countermeasure strategies and planned activities demonstrating that the State will implement data-driven programs 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) based upon State data.

□ **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 in the HSP at _____ (location).

- Description of the State's methods for collecting and analyzing data is provided in the HSP at _____ (location).

□ **Use of fees collected from motorcyclists for motorcycle programs:**

[*Check **one box only** below and fill in **all** blanks under the checked box **only**.*]

□ 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 ____ demonstrates that all fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs are 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 in the HSP at _____ (location).

□ PART 8: STATE GRADUATED DRIVER LICENSING INCENTIVE GRANTS (23 CFR 1300.26)

[*Check the box above **only** if applying for this grant.*]

[*Fill in **all** applicable blanks below*.]

The State's graduated driver's licensing statute, requiring both a learner's permit stage and intermediate stage prior to receiving an unrestricted driver's license, was last amended on _____ (date), is in effect, and will be enforced during the fiscal year of the grant.

Learner's Permit Stage –

Legal citations:

- _____ Applies prior to receipt of any other permit, license, or endorsement by the State if applicant is younger than 18 years of age and has not been issued an intermediate license or unrestricted driver's license by any State;
- _____ Applicant must pass vision test and knowledge assessment;
- _____ In effect for at least 6 months;
- _____ In effect until driver is at least 16 years of age;
- _____ Must be accompanied and supervised at all times;
- _____ Requires completion of State-certified driver education or training course or at least 50 hours of behind-the-wheel training, with at least 10 of those hours at night;
- _____ Prohibits use of personal wireless communications device;
- _____ Extension of learner's permit stage if convicted of a driving-related offense;
- _____ Exemptions from learner's permit stage.

Intermediate Stage –

Legal citations:

- _____ Commences after applicant younger than 18 years of age successfully completes the learner's permit stage, but prior to receipt of any other permit, license, or endorsement by the State;
- _____ Applicant must pass behind-the-wheel driving skills assessment;
- _____ In effect for at least 6 months;
- _____ In effect until driver is at least 17 years of age;
- _____ Must be accompanied and supervised between hours of 10:00 p.m. and 5:00 a.m. during first 6 months of stage, except when operating a motor vehicle for the purposes of work, school, religious activities, or emergencies;
- _____ No more than 1 nonfamilial passenger younger than 21 years of age allowed;
- _____ Prohibits use of personal wireless communications device;
- _____ Extension of intermediate stage if convicted of a driving-related offense;
- _____ Exemptions from intermediate stage.

□ PART 9: NONMOTORIZED SAFETY GRANTS (23 CFR 1300.27)

[*Check the box above **only** applying for this grant AND **only** if NHTSA has identified the State as eligible because the State annual combined pedestrian and bicyclist fatalities exceed 15 percent of the State's total annual crash fatalities based on the most recent calendar year final FARS data.*]

The State affirms that it will use the funds awarded under 23 U.S.C. 405(h) only for the implementation of programs as provided in 23 CFR 1300.27(d).

□ PART 10: RACIAL PROFILING DATA COLLECTION GRANTS (23 CFR 1300.28)

[*Check the box above **only** if applying for this grant.*]

[*Check one box **only** below and fill in **all** blanks under the checked box **only**.*]

□ In the HSP at _____ (location), the official document(s) (i.e., a law, regulation, binding policy directive, letter from the Governor or court order) demonstrates that the State maintains and allows public inspection of statistical information on the race and ethnicity of the driver for each motor vehicle stop made by a law enforcement officer on all public roads except those classified as local or minor rural roads.

□ In the HSP at _____ (location), the State will undertake countermeasure strategies and planned activities during the fiscal year of the grant to maintain and allow public inspection of statistical information on the race and ethnicity of the driver for each motor vehicle stop made by a law enforcement officer on all public roads except those classified as local or minor rural roads. (A State may not receive a racial profiling data collection grant by checking this box for more than 2 fiscal years.)

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

- I have reviewed the above information in support of the State's application for 23 U.S.C. 405 and Section 1906 grants, and based on my review, the information is accurate and complete to the best of my personal knowledge.

- As condition of each grant awarded, the State will use these grant funds in accordance with the specific statutory and regulatory requirements of that grant, and will comply with all applicable laws, regulations, and financial and programmatic requirements for Federal grants.

- I understand and accept that incorrect, incomplete, or untimely information submitted in support of the State's application may result in the denial of a grant award.

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these

Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

_____ _____

Signature Governor's Representative for Highway Safety Date

_____

Printed name of Governor's Representative for Highway Safety

Appendix C to Part 1300 – 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 (except the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands) or the Secretary of the Interior, respectively, will be expended by political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs, the NHTSA Regional Administrator 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 the 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 subdivision has 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 D to Part 1300 – 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 15 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 15 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.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

Heidi R. King,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 2018–01266 Filed 1–24–18; 8:45 am]

BILLING CODE 4910–59–C