FEDERAL REGISTER

Vol. 81 Monday,
No. 99 May 23, 2016

Part III

Department of Transportation

National Highway Traffic Safety Administration

23 CFR Part 1300
Uniform Procedures for State Highway Safety Grant Programs; Final Rule

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: Interim final rule; request for comments.

SUMMARY: This action establishes revised uniform procedures implementing State highway safety grant programs, as a result of enactment of the Fixing America's Surface Transportation (FAST) Act. It also reorganizes, streamlines and updates some grant requirements. This document is being issued as an interim final rule to provide timely guidance to States about the application procedures for highway safety grants starting in year 2017. The agency requests comments on the rule. The agency will publish a notice responding to any comments received and, if appropriate, will amend provisions of the regulation.

DATES: This interim final rule is effective on May 23, 2016. Comments concerning this interim final rule are due October 31, 2016. In compliance with the Paperwork Reduction Act, NHTSA is also seeking comment on a revised information collection. See the Paperwork Reduction Act section under Regulatory Analyses and Notices below. Comments concerning the revised information collection requirements are due October 31, 2016 to NHTSA and to the Office of Management and Budget (OMB) at the address listed in the **ADDRESSES** section.

ADDRESSES: You may submit number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, please mention the docket number of this document.

You may also call the Docket at 202–366–9324.

Comments regarding the revised information collection should be submitted to NHTSA through one of the preceding methods and a copy should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Regulatory Analyses and Notices.

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 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. Executive Summary

On July 6, 2012, the President signed into law the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21), Public Law 112–141, which restructured and made various substantive changes to the highway safety grant programs administered by the National Highway Traffic Safety Administration (NHTSA). NHTSA issued an interim final rule (IFR) implementing the MAP–21 provisions and sought public comment. 78 FR 4986 (Jan. 23, 2013). Because MAP–21 was a two-year authorization with short extensions, the agency did not have an opportunity to address the comments received in response to the MAP–21 IFR.

On December 4, 2015, the President signed into law the Fixing America's Surface Transportation Act (FAST Act), Public Law 114–94, the first authorization enacted in over ten years that provides long-term funding certainty for surface transportation. 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), and it restored a small grant from a previous authorization. The FAST Act requires NHTSA to award grants pursuant to rulemaking. Today's action implements the FAST Act provisions, taking into account comments received in response to the MAP–21 IFR.

Unlike MAP–21, the FAST Act did not significantly change the structure of the grant programs. The FAST Act primarily made targeted amendments to the existing grant programs, providing more flexibility for States to qualify for some of the grants. 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. However, 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
- Distracted Driving Grants—Added flexibility for States to qualify for grants
- State Graduated Driver Licensing Incentive Grants—Added flexibility for States to qualify for grants
- 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 grant authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Sec. 1906, Public Law 109–59 (Section 1906).

The FAST Act requires NHTSA to award highway safety grants pursuant to rulemaking. In order to provide States with as much advance time as practicable to prepare grant applications and to ensure the timely award of all grants, the agency is proceeding with an expedited rulemaking. Accordingly, NHTSA is publishing this rulemaking as an IFR, with immediate effectiveness, to implement the application and administrative requirements of the highway safety grant programs.

This IFR sets forth the application, approval, and administrative requirements for all 23 U.S.C. Chapter 4 grants and the Section 1906 grants. Section 402, as amended by the FAST Act, continues to require each State to have an approved highway safety program designed to reduce traffic crashes and the resulting deaths, injuries, and property damage. Section 402 sets forth minimum requirements with which each State's highway safety program must comply. Under existing procedures, each State must submit for NHTSA approval an annual Highway Safety Plan (HSP) that identifies highway safety problems, establishes performance measures and targets, and describes the State's countermeasure strategies and projects to achieve its performance targets. (23 U.S.C. 402(k)) The agency is making several specific amendments to the HSP contents to foster consistency across all States and to facilitate the electronic submission of HSPs required under the FAST Act. (23 U.S.C. 402(k)(3))

As noted above, the FAST Act made no substantive changes to many of the National Priority Safety Program grants, provided additional qualification flexibility for others, and established new grants. For grants without substantive changes (Occupant Protection Grants, State Traffic Safety Information System Improvements Grants, Impaired Driving Countermeasures Grants and Motorcyclist Safety Grants), the agency is simply aligning the application requirements with the HSP requirements under Section 402 to streamline and ease State burdens in applying for Section 402 and 405 grants. For Section 405 grants with additional flexibility (Alcohol-Ignition Interlock Law Grants, Distracted Driving Grants and Stated Graduated Driver Licensing Incentive Grants) and for the new grants (24–7 Sobriety Program Grants, Nonmotorized Grants and Racial Profiling Data Collection Grants), where the FAST Act identified specific qualification requirements, today's action adopts the statutory language with limited changes. The agency is also aligning the application requirements for these grants with the HSP requirements.

While many procedures and requirements continue unchanged by today's action, this IFR makes limited changes to administrative provisions to address changes in the HSP and changes made by the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200.

Finally, this IFR recodifies 23 CFR part 1200 at 23 CFR part 1300, the part associated with NHTSA programs. The section numbers remain largely the same as before except for the change from 1200 to 1300. (For example, Sec. 1200.3 Definitions becomes Sec. 1300.3 Definitions, Sec. 1200.11 Contents (Highway Safety Plan) becomes Sec. 1300.11 Contents (Highway Safety Plan), etc.) In this preamble, all references are to part 1300 instead of the corresponding part 1200.

The FAST Act retained the MAP–21 requirement for a consolidated single application due by July 1 of the fiscal year preceding the fiscal year of the grant. (23 U.S.C. 402(k)(2) and 402(k)(3)) Therefore, for fiscal year 2017 and subsequent fiscal years, the application deadline remains July 1 prior to the fiscal year of the grant. Because of the short timeframe between today's action and the July 1 application deadline, the agency is taking the following approach to ease the application burden on States. For those programs without substantive changes (Occupant Protection, State Traffic Safety Information System Improvements, Impaired Driving Countermeasures, and Motorcyclist Safety), we are delaying the requirement for States to follow the new regulatory process until fiscal year 2018 grant applications. For these grants, States may follow the application requirements in 23 CFR part 1200, switching to the part 1300 requirements for fiscal year 2018 grants and thereafter. (To provide maximum advance notice, the agency informed States of this option in a March 31, 2016 letter.) However, for grants with substantive changes (Alcohol-Ignition Interlock Laws, Distracted Driving, and State Graduated Driver Licensing) and for new grants (24–7 Sobriety Program, Nonmotorized Safety, and Racial Profiling Data Collection), States must follow the application requirements in today's IFR at 23 CFR part 1300, commencing with fiscal year 2017 grant applications. For additional flexibility, States may elect to follow the new, more streamlined procedures (*i.e.,* the part 1300 requirements) for fiscal year 2017 grant applications for the former group of grants as well (*i.e.,* those without substantive changes). In all cases, the requirements under 23 CFR part 1300 to submit grant application and administration information through the Grants Management Solutions Suite (discussed below) will not apply until FY 2018 applications, when that system becomes fully functional.

In this IFR, the agency also responds to comments from the MAP–21 IFR. Because MAP–21 was a two-year authorization with multiple short extensions, the agency did not have the opportunity to address comments. Those comments are now addressed within the relevant sections below and in Section VII below.

For ease of reference, the preamble identifies in parentheses within each subheading and at appropriate places in the explanatory paragraphs the new CFR citation for the corresponding regulatory text.

II. General Provisions

A. Definitions. (23 CFR 1300.3)

This IFR adds definitions for the following terms: Annual report file, countermeasure strategy, data-driven, evidence-based, fatality rate, Fatality Analysis Reporting System, final FARS, five-year rolling average, number of fatalities, number of serious injuries, performance measure, performance target, Section 1906, and serious injuries. Most of these terms and definitions are generally understood by States. Today's action also amends a few definitions, such as those for program area and project, to clarify and distinguish terms that often have been used interchangeably. These amended definitions will help provide consistency across all State HSPs. Finally, this IFR deletes the term ''Approving Official'' and replaces it with ''Regional Administrator,'' used throughout this part.

B. State Highway Safety Agency. (23 CFR 1300.4)

Today's action updates the authorities and functions of the State Highway Safety Agency, also referred to as the State Highway Safety Office. While the IFR explicitly adds the duty to manage Federal grant funds in accordance with all Federal and State requirements, this is not a new obligation of State Highway Safety Offices, but rather one that has always been required. Consistent with the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR part 200, the agency is adding the requirement that State Highway Safety Offices must conduct a risk assessment

of subrecipients and monitor subrecipients based on risk.

III. Highway Safety Plan

MAP–21 made significant changes to highway safety programs under 23 U.S.C. Chapter 4. It required a performance-based Highway Safety Plan with performance measures and targets. (23 U.S.C. 402(k)) Prior to MAP–21, there was a clear separation between the ''Highway Safety Performance Plan,'' where States included performance measures and targets, and the ''Highway Safety Plan,'' where States developed projects and activities to implement the highway safety program. MAP–21 consolidated these requirements under the Highway Safety Plan, where the performance plan was an element of the development of the State highway safety program.

In addition to establishing a performance-based HSP, MAP–21 established the HSP as the single, consolidated application for all highway safety grants under 23 U.S.C. Chapter 4. While the MAP–21 IFR established the beginnings of a single, consolidated application, today's action more fully integrates the Section 402 and Section 405 programs, establishing the HSP as the State's single planning document accounting for all behavioral highway safety activities.

This IFR clarifies the HSP content (highway safety planning process, performance measures and targets, and countermeasure strategies and projects), so that these elements may also serve as a means to fulfill some of the application requirements for certain Section 405 grants. By creating a link between the HSP content requirements provided in Section 402 and the Section 405 grant application requirements, this IFR streamlines the NHTSA grant application process and relieves some of the burdens associated with the previous process.

The FAST Act amended Section 402 to require NHTSA to develop procedures to allow States to submit highway safety plans, including any attachments to the plans, in electronic form. (23 U.S.C. 402(k)(3)) NHTSA intends to implement this provision of the FAST Act with the Grants Management Solutions Suite (GMSS) beginning with fiscal year 2018 grants, as discussed in more detail below. GMSS is the improved and enhanced electronic system that States will use to submit the HSP to apply for grants, receive grant funds, make amendments to the HSP 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 grant funds and invoice expenses.

A. General

The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula grant program to improve highway safety in the United States. As a condition of the grant, States must meet certain requirements contained in Section 402. The FAST Act made limited administrative changes to Section 402 requirements and made no changes to the contents of the Highway Safety Plan. Section 402(a) continues to require each State to have a highway safety program, approved by the Secretary of Transportation (delegated to NHTSA), which is designed to reduce traffic crashes and the resulting deaths, injuries, and property damage from those crashes. Section 402(a) also continues to require State highway safety programs to comply with uniform guidelines promulgated by the Secretary.

Section 402(b), which sets forth the minimum requirements with which each State highway safety program must comply, requires the HSP to provide for a data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. Section 402(b) continues to require each State to coordinate its HSP, data collection, and information systems with the State strategic highway safety plan as defined in 23 U.S.C. 148(a). This requirement to coordinate these elements into a unified State approach to highway safety promotes comprehensive transportation and safety planning and program efficiency in the States. Coordinating the HSP planning process with the programs of other DOT agencies, where possible, will ensure alignment of State performance targets where common measures exist, such as for fatalities and serious injuries. States are encouraged to use data to identify performance measures beyond these consensus performance measures (*e.g.,* distracted driving, bicycles). NHTSA collaborated with other DOT agencies to promote alignment among performance measures, and that alignment is reflected in this IFR.

B. Highway Safety Plan Contents

The FAST Act retained the significant changes in MAP–21 for States to develop performance-based highway safety programs. Beginning with fiscal year 2014 HSPs, States provided additional information in the HSP to meet the performance-based, evidence-based requirements of MAP–21. This IFR reorganizes and further refines the information provided in the MAP–21 IFR to help streamline the HSP content requirements and align them with the Section 405 grant requirements.

In response to the MAP–21 IFR, one commenter asked why two separate plans were required, and recommended a single highway safety performance plan, the first part describing processes used to develop the plan and the second part describing a detailed spending plan. The change required under MAP–21 did not create two plans. Rather, under MAP–21, the HSP is the only plan that the State submits as its application for highway safety grants. The required content of the HSP includes a description of the highway safety planning process, a performance plan identifying performance measures and targets, and countermeasure strategies and projects. These content requirements encourage the linkage of each step of the planning process: Problem identification linked to data driven performance measures and targets, followed by countermeasure strategies and projects to achieve those targets. The ''performance plan'' is an integral part of the HSP. The agency believes that MAP–21 made it clear that problem identification and performance measures drive the specific projects and activities in the HSP.

1. Highway Safety Planning Process. (23 CFR 1300.11(a))

Today's action reorganizes and clarifies the section of the HSP that describes the State's highway safety planning process. As in the MAP–21 IFR, the State must describe data sources and processes used to develop its highway safety program, including problem identification, description of performance measures, establishment of performance targets, and selection of countermeasure strategies and projects. This section continues to require identification of participants in the planning process, the data sources consulted, and the results of coordination of the HSP with the State HSIP. This IFR clarifies that this section of the HSP must also include a description of the State's problems and methods for project selection. These elements are a typical part of the State highway safety planning process.

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

This requirement is unchanged from the one codified at 23 CFR 1200.11(d). States should review and analyze the previous year's HSP as part of the development of a data-driven HSP. As required in the MAP–21 IFR, States

must provide a program-area-level report on their success in meeting performance targets. The agency believes that such information is valuable in the development of the HSP. If a State has not met its performance targets in the previous year's HSP, today's action also requires the State to describe how it will adjust the upcoming HSP to better meet performance targets. However, the agency believes that States should continuously evaluate and change their HSP to meet the statutory requirement that the highway safety program be ''designed to reduce traffic crashes and the resulting deaths, injuries, and property damage from those crashes.''

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

MAP–21 specified that HSPs must contain the performance measures identified in ''Traffic Safety Performance Measures for States and Federal Agencies'' (DOT HS 811 025), jointly developed by NHTSA and the Governors Highway Safety Association (GHSA). NHTSA and GHSA agreed on a minimum set of performance measures to be used by States and federal agencies in the development and implementation of behavioral highway safety plans and programs. An expert panel from NHTSA, the Federal Highway Administration (FHWA), the Federal Motor Carrier Safety Administration, State highway safety offices, academic and research organizations, and other key groups assisted in developing these measures. Originally, 14 measures were established. In accordance with MAP–21, NHTSA and GHSA coordinated to identify a new performance measure—bicyclist fatalities. Currently, States report on 15 measures—11 core outcome measures,[1] one core behavior measure,[2] and three activity measures [3]—that cover the major areas common to HSPs, using existing data systems. (23 U.S.C. 402(k)) This minimum set of performance measures addresses most of the National Priority Safety Program areas, but it does not address all of the possible highway safety problems in a State or all of the National Priority Safety Programs specified in Section 405. For highway safety problems identified by the State or relevant to a particular Section 405 grant application, and for which consensus performance measures have not been identified (*e.g.,* distracted driving and bicycles), this IFR clarifies the existing requirements for States to develop their own evidence-based performance measures.

MAP–21 provided additional linkages between NHTSA-administered programs and the programs of other DOT agencies coordinated through the State strategic highway safety plan (SHSP) administered by FHWA, as defined in 23 U.S.C. 148(a). NHTSA and FHWA collaborated to harmonize three common performance measures across the programs of the two agencies (fatalities, fatality rate, and serious injuries) to ensure that the highway safety community is provided uniform measures of progress. Today's action aligns the State performance measures and targets that are common to both NHTSA and FHWA. Consistent with FHWA's rulemaking on performance measures (81 FR 13882, Mar. 15, 2016), today's action requires that performance measures use 5-year rolling averages and that the performance targets for the three common performance measures be identical to the State DOT targets reported in the Highway Safety Improvement Program (HSIP) annual report, as coordinated through the SHSP.

The 5-year rolling average is calculated by adding the number of fatalities or the number of serious injuries, as they pertain to the performance measure, for the most recent 5 consecutive calendar years ending in the year for which the targets are established. The annual report file (ARF) for FARS may be used, but only if final FARS is not yet available. The sum of the fatalities or the serious injuries is divided by five and then rounded to the tenth decimal place for the fatality number and the serious injury number. The fatality rate is determined by calculating the number of fatalities per vehicle mile traveled for each of the five years, dividing by five, and then rounding to the thousandth decimal place.

States must report serious injuries using the Model Minimum Uniform Crash Criteria (MMUCC) Guideline, 4th Edition by April 15, 2019. States may use serious injuries coded as ''A'' on the KABCO [4] injury classification scale, through use of the conversion tables developed by NHTSA, until April 15, 2019. After that date, all States must use ''suspected serious injury (A)'' as defined in the MMUCC, 4th Edition. This requirement will provide for greater consistency in the reporting of serious injuries and allow for better communication of serious injury data at the national level. For clarity, NHTSA also adds a definition for serious injuries and number of serious injuries. Consistent with the FHWA rulemaking on performance measures, the ''number of serious injuries'' performance measure must account for crashes involving a motor vehicle traveling on a public road, which is consistent with FARS. State crash databases may contain serious injury crashes that did not involve a motor vehicle. In order to make the data consistent for the performance measures, States will only report serious injury crashes that involved a motor vehicle.

A number of commenters to the MAP–21 IFR recommended that the agency include performance measures for bicycle and pedestrian fatalities and injuries. Since fiscal year 2014, States have been required to report on a performance measure for the number of pedestrian fatalities, as provided in the ''Traffic Safety Performance Measures for States and Federal Agencies.'' As noted earlier, NHTSA and GHSA collaborated to identify a new performance measure—bicyclist fatalities—on which States must report beginning with fiscal year 2015 HSPs. (23 U.S.C. 402(k)) While this IFR does not require performance measures for bicycle and pedestrian serious injuries, the agency refers commenters to FHWA's new non-motorized performance measure for the number of combined non-motorized fatalities and non-motorized serious injuries in a State.

One commenter stated that the requirement for GHSA coordination acted as a limitation on the performance measures that could be required by NHTSA. The statute requires NHTSA to coordinate with GHSA in making revisions to the set of required performance measures (23 U.S.C.

[1] States set goals and report progress on the following outcome measures: Number of traffic fatalities (FARS); Number of serious injuries in traffic crashes (State crash data files); Fatalities/VMT (FARS, FHWA); Number of unrestrained passenger vehicle occupant fatalities, all seat positions (FARS); Number of fatalities in crashes involving a driver or motorcycle operator with a BAC of .08 and above (FARS); Number of speeding-related fatalities (FARS); Number of motorcyclist fatalities (FARS); Number of unhelmeted motorcyclist fatalities (FARS); Number of drivers age 20 or younger involved in fatal crashes (FARS); Number of pedestrian fatalities (FARS); and Number of bicyclist fatalities (FARS).

[2] States set goals and report progress on one behavior core measure—observed seat belt use for passenger vehicles, front seat outboard occupants (survey).

[3] States report on the following activity core measures: Number of seat belt citations issued during grant-funded enforcement activities (grant activity reporting); Number of impaired driving arrests made during grant-funded enforcement activities (grant activity reporting); Number of speeding citations issued during grant-funded enforcement activities (grant activity reporting).

[4] KABCO refers to the coding convention system for injury classification established by the National Safety Council.

402(k)), and NHTSA does not intend to impose additional performance measures without such coordination. For example, NHTSA and GHSA worked quickly to develop the new bicyclist fatalities performance measure to address this growing highway safety problem.

4. Highway Safety Program Area Problem Identification, Countermeasure Strategies, Projects and Funding. (23 CFR 1300.11(d))

The Federal statute requires the State to describe its strategies in developing its countermeasure programs and selecting the projects to allow it to meet the highway safety performance targets. The HSP must continue to include a description of the countermeasure strategies and projects the State plans to implement to reach the performance targets identified by the State in the HSP. Today's action reorganizes and clarifies these requirements.

For each Program Area, the HSP must describe the countermeasure strategies and the process (including data analysis) for selecting that countermeasure strategy and the corresponding projects. At a minimum, the HSP must describe the overall projected traffic safety impacts, just as the MAP–21 regulation required. The HSP must also link the countermeasure strategies to the problem identification data, performance targets and allocation of the funds to projects. One commenter to the MAP–21 IFR was concerned that this is beyond what was mandated by MAP–21. Section 402(k)(e)(B) required then and still requires the contents of the HSP to include ''a strategy for programing funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets . . . .'' An overall assessment of the impact of chosen strategies provides the necessary evidence and justification to support the projects and activities selected by the State to achieve its performance targets. In order to develop a program to achieve its targets, the State needs to conduct such an assessment or analysis. Accordingly, today's action retains this requirement from the MAP–21 IFR.

For each countermeasure strategy, the HSP must also provide 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. Finally, for each countermeasure strategy, the HSP must include data analysis to support the effectiveness of the selected countermeasure strategy. A number of States already include much of this information, but today's action now requires this information to promote uniformity among HSPs and also to allow the agency to implement the GMSS for the electronic submission of HSPs. The agency anticipates that beginning in fiscal year 2018 States will be able to enter this information in the GMSS as part of the HSP.

NHTSA does not intend to discourage innovative countermeasures, especially where few established countermeasures currently exist, such as in distracted driving. Innovative countermeasures that may not be fully proven but that show promise based on limited practical application are encouraged when a clear data-driven safety need has been identified. As evidence of potential success, justification of new countermeasures can also be based on the prior success of specific elements from other effective countermeasures.

The FAST Act continues the requirement for States to include a description of their evidence-based traffic safety enforcement program to prevent traffic violations, crashes, crash fatalities, and injuries in areas most at risk for crashes. Today's action clarifies this requirement and allows States to cross-reference existing projects in the HSP to demonstrate an evidence-based traffic safety enforcement program. Allowing States to cross-reference projects identified under countermeasure strategies will alleviate the burden of duplicative entries.

The FAST Act continues the requirement that a State must provide assurances that it will implement activities in support of national high-visibility law enforcement mobilizations coordinated by the Secretary of Transportation. In addition to providing such assurances, the State must describe in its HSP the planned high-visibility enforcement strategies to support national mobilizations for the upcoming grant year and provide information on those activities. Based on requests to define the level of participation required, today's notice clarifies this requirement. For example, the FAST Act requires NHTSA to implement three high-visibility enforcement campaigns on impaired driving and occupant protection each year. (23 U.S.C. 404) States are required to support these three campaigns as a condition of a Section 402 grant. NHTSA intends to identify the specific dates of the national mobilizations and provide programmatic ideas and resources for the campaigns on *www.trafficsafetymarketing.gov.*

Under the MAP–21 IFR, States submitted as part of their HSP a program cost summary (HS Form 217) and a list of projects (including an estimated amount of Federal funds for each project) that the State proposed to conduct in the upcoming fiscal year to meet the performance targets identified in the HSP. States were required to keep the project list up-to-date and to include identifying project numbers for each project on the list. Today's action eliminates the HS Form 217 and the corresponding list of projects beginning with fiscal year 2018 grants, but not the reporting requirement. Instead, States will be required to provide project information electronically in the GMSS. This will allow States to rely on project information in the HSP to apply for some Section 405 grants without providing duplicative information. States will be able to cross reference the information in their Section 405 application.

The FAST Act continues the Teen Traffic Safety Program that provides for Statewide efforts to improve traffic safety for teen drivers. States may elect to incorporate such a Statewide program as an HSP program area. If a State chooses to do so, it must include project information related to the program in the HSP.

Finally, the FAST Act continues the ''single application'' requirement that State applications for Section 405 grants be included in the HSP submitted on July 1 of the fiscal year preceding the fiscal year of the grant. Today's action also requires the Section 1906 grant application to be submitted as part of the HSP. As under the MAP–21 IFR, States will continue to submit certifications and assurances for all 23 U.S.C. Chapter 4 and Section 1906 grants, signed by the Governor's Representative for Highway Safety, certifying the HSP application contents and providing assurances that they will comply with applicable laws and regulations, financial and programmatic requirements and any special funding conditions. Only the Governor's Representative for Highway Safety may sign the certifications and assurances required under this IFR. The Certifications and Assurances will now be included as appendices to this part.

C. Review and Approval Procedures. (23 CFR 1300.14)

Effective October 1, 2016, the FAST Act specifies that NHTSA must approve or disapprove the HSP within 45 days after receipt. This provision will be implemented with fiscal year 2018 grant applications. (See Section VI.) As in past practice, NHTSA may request

additional information from a State regarding the contents of the HSP to determine whether the HSP meets statutory, regulatory and programmatic requirements. To ensure that HSPs are approved or disapproved within 45 days, States must respond promptly to NHTSA's request for additional information. Failure to respond promptly may delay approval and funding of the State's Section 402 grant.

Within 45 days, the Regional Administrator will approve or disapprove the HSP, and specify any conditions to the approval. If the HSP is disapproved, the Regional Administrator will specify the reasons for disapproval. The State must resubmit the HSP with the necessary modifications to the Regional Administrator. The Regional Administrator will notify the State within 30 days of receipt of the revised HSP whether it is approved or disapproved.

NHTSA will also complete review of Section 405 grant applications within 45 days and notify States of grant award amounts early in the fiscal year. Because the calculation of Section 405 grant awards depends on the number of States meeting the qualification requirements, States must respond promptly to NHTSA's request for additional information or face disqualification from consideration for a Section 405 grant. The agency does not intend to delay grant awards to States that comply with grant submission procedures due to the inability of other States to meet submission deadlines.

D. Apportionment and Obligation of Grant Funds. (23 CFR 1300.15)

The provisions in the MAP–21 IFR regarding the apportionment and obligation of grant funds remain largely unchanged. As discussed above, the agency will replace the HS Form 217 so that States can enter the information directly in the GMSS. States will be able to use the GMSS to obligate and voucher for expenses as well as to amend the HSP throughout the fiscal year. beginning with fiscal year 2018 grants.

IV. National Priority Safety Program and Racial Profiling Data Collection.

Under this heading, we describe the requirements set forth in today's action for the grants under Section 405—Occupant Protection, State Traffic Safety Information System Improvements, Impaired Driving Countermeasures, Distracted Driving, Motorcyclist Safety, State Graduated Driver Licensing Incentive and Nonmotorized Safety— and the Section 1906 grant—Racial Profiling Data Collection. The subheadings and explanatory paragraphs contain references to the relevant sections of this IFR where a procedure or requirement is implemented, as appropriate.

A. General. (23 CFR 1300.20)

Some common provisions apply to most or all of the grants authorized under Sections 405 and 1906. The agency is retaining most of these provisions without substantive change in this IFR—definitions (§ 1300.20(b)); qualification based on State statutes (§ 1300.20(d)); and matching (§ 1300.20(f)).

1. Eligibility and Application. (23 CFR 1300.20(c))

The eligibility provision in this IFR remains unchanged from the MAP–21 IFR. For all but the Motorcyclist Safety Grant program, eligibility under Section 405 and Section 1906 is controlled by the definition of ''State'' under 23 U.S.C. 401, which includes 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. For the Motorcyclist Safety grants, the 50 States, the District of Columbia and Puerto Rico are eligible to apply. This IFR, however, adds a provision related to general application requirements for Section 405 and Section 1906 grants. Specifically, in its application for Section 405 or Section 1906 grants, a State must identify specific page numbers in the HSP if it is relying on information in the HSP as part of its application for those programs. For example, if a State is relying on the occupant protection program area of the HSP to demonstrate problem identification, countermeasure strategies and specific projects required to meet the qualification requirements for an occupant protection plan (§ 1300.21(d)(1)), it must provide specific page numbers for the occupant protection program area in the HSP in its application for the Section 405 Occupant Protection Grant.

2. Award Determination and Transfer of Funds. (23 CFR 1300.20(e))

The FAST Act made changes conforming the grant allocations under Section 405. For all Section 405 grants except State Graduated Driver Licensing Incentive Grants, grant awards will be allocated in proportion to the State's apportionment under Section 402 for fiscal year 2009. For Section 1906, the FAST Act does not specify how the grant awards are to be allocated. For consistency with the other grants, and in accordance with past practice, NHTSA will allocate Section 1906 grant awards in the same manner. The FAST Act specifies a different treatment for State Graduated Driver Licensing Incentive Grant awards, which must be allocated in proportion to the State's apportionment under Section 402 for the particular fiscal year of the grant.

In determining grant awards, NHTSA will apply the apportionment formula under 23 U.S.C. 402(c) to all qualifying States, in proportion to the amount each such State receives under 23 U.S.C. 402(c), so that all available amounts are distributed to qualifying States to the maximum extent practicable. (§ 1300.20(e)(1)) However, the IFR provides that the amount of an award for each grant program may not exceed 10 percent of the total amount made available for that grant programs (except for the Motorcyclist Safety Grant and the Racial Profiling Data Collection Grant, which have a different limit imposed by statute). This limitation on grant amounts is necessary to prevent unintended large distributions to a small number of States in the event only a few States qualify for a grant award. (§ 1300.20(e)(2))

In the event that all funds authorized for Section 405 grants are not distributed, the FAST Act authorizes NHTSA to transfer the remaining amounts before the end of the fiscal year for expenditure under the Section 402 program. (23 U.S.C. 405(a)(8)) In accordance with this provision, NHTSA will transfer any unawarded Section 405 grant funds to the Section 402 program, using the apportionment formula. (§ 1300.20(e)(3)) In the event that all grant funds authorized for Section 1906 grants are not distributed, the FAST Act does not authorize NHTSA to reallocate unawarded Section 1906 funds to other State grant programs. Rather, any such funds will be returned for use under 23 U.S.C. 403, and do not fall within the scope of this IFR.

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

Under MAP–21, States were required to provide an assurance that they would maintain their aggregate expenditures from all sources within the State. The FAST Act amended this provision to focus only on State level expenditures, making compliance easier for States. The applicable provision now requires the lead State agency for occupant protection programs, impaired driving programs and traffic safety information system improvement programs to maintain its aggregate expenditures for those programs at or above the average level of such expenditures in fiscal

years 2014 and 2015 (''maintenance of effort'' requirement). As under MAP–21, the agency has the authority to waive or modify this requirement for not more than one fiscal year. However, since the FAST Act makes compliance with the maintenance of effort requirement easier, waivers will be granted to States only under exceptional or uncontrollable circumstances. Maintenance of effort requirements have been a feature of these grants for many years, and States should not expect to receive waivers. We expect the State highway safety agency to plan for and meet these requirements each year.

In response to the MAP–21 IFR, two commenters requested guidance on maintenance of effort, stating that it was difficult for States to assure that local resources were maintained. The requirement for maintenance of effort to include local resources was a feature of MAP–21. As noted above, the FAST Act amendment limits the level of effort determination to the lead State agency responsible for the applicable programs.

C. Occupant Protection Grants. (23 CFR 1300.21)

The FAST Act continues the MAP–21 Occupant Protection Grants with only one substantive amendment regarding the use of funds by high seat belt use rate States. Today's IFR makes changes to effect the amendment. High belt use rate States are now permitted to use up to 100 percent of their Occupant Protection funds for any project or activity eligible for funding under section 402.

This IFR also amends program requirements to streamline the application and review process. Commenters to the MAP–21 IFR have noted, and the agency recognizes, that some Occupant Protection application materials are already required as part of the State's annual Highway Safety Plan. Today's notice addresses this consideration, where feasible, by directing States in their Occupant Protection application to cite to page numbers in the HSP containing descriptions and lists of projects and activities, in lieu of providing separate submissions.

1. Eligibility Determination. (23 CFR 1300.21(c))

Under the Occupant Protection Grant program, an eligible State can qualify for grant funds as either a high seat belt use rate State or a lower seat belt use rate State. A high seat belt use rate State is a State that has an observed seat belt use rate of 90 percent or higher; a lower seat belt use rate State is a State that has an observed seat belt use rate lower than 90 percent. Today's IFR retains the eligibility determination in the MAP–21 IFR.

2. Qualification Requirements for All States

To qualify for an Occupant Protection Grant, all States must meet several requirements. The agency is updating and amending some of these requirements to streamline application requirements, in light of information already provided in the HSP.

i. Occupant Protection Plan. (23 CFR 1300.21(d)(1))

The agency is amending this criterion to require States to submit an occupant protection plan each fiscal year, but the requirement may be satisfied by submissions typically included in the HSP.[5] Under the MAP–21 IFR, States were required to submit an occupant protection plan in the first fiscal year (FY 2013) and provide updates to the plan in subsequent years. States were also required to submit an occupant protection program area plan in the HSP under 23 CFR 1200.11. The occupant protection program area in the HSP contains many of the same elements included in an occupant protection plan, such as problem identification, countermeasure strategies and projects to meet performance targets. This occupant protection program area is a continuing requirement in the HSP under § 1300.11. For this reason, this IFR is streamlining the occupant protection plan requirement for a Section 405(b) Occupant Protection Grant. The IFR now directs States to reference the material already provided in the HSP (by page number), and does not include additional burdens or requirements.

ii. Click It or Ticket. (23 CFR 1300.21(d)(2))

The FAST Act continues the requirement that States participate in the *Click It or Ticket* national mobilization in order to qualify for an Occupant Protection Grant. States are required to describe Click it or Ticket activities in their HSP. The agency is amending this criterion only to direct the States to cite to this description of activities in their HSP, in lieu of including a separate submission as part of their application.

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

The FAST Act continues the requirement that States have ''an active network of child restraint inspection stations.'' The agency is amending this criterion to address considerations that the submission of comprehensive lists of inspection stations are burdensome and unnecessary. Today's IFR will require States to submit a table in their HSP documenting where the inspection stations are located and what populations they serve, including high risk groups. The State will also be required to certify that each location is staffed with certified technicians. The agency believes that this information will be sufficient for reviewers to evaluate whether there is an active network of stations.

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

The FAST Act continues the requirement that States have a plan to recruit, train and maintain a sufficient number of child passenger safety technicians. The agency is amending this criterion to allow States to document this information in a table and submit it as part of the annual HSP, in lieu of providing a separate submission.

3. Additional Requirements for Lower Seat Belt Use Rate States

In addition to meeting the above requirements, States with a seat belt use rate below 90 percent must meet at least three of six criteria to qualify for grant funds. The agency is making changes to some of these criteria in today's IFR. Many of these changes address comments to streamline application materials. This IFR allows States to reference page numbers in the HSP in cases where such information has already been provided, in lieu of providing a separate submission.

i. Law-Based Criteria. (23 CFR 1300.21(e)(1) and (2))

The FAST Act continues two law-based criteria—primary seat belt use law and occupant protection laws—for Lower Seat Belt Use Rate States. The agency has reviewed comments related to legal requirements and exemptions under the primary belt and occupant protection law criteria. Commenters requested that NHTSA amend criteria to allow States more flexibility regarding minimum fines, additional exemptions and primary seat belt requirements. Legal criteria for primary seat belt and child restraint laws have been included in several of NHTSA's predecessor occupant protection grant programs. The agency adopted the specific requirements under the MAP–21 IFR with this consideration in mind. Given the maturity of the criteria under these

[5] The first year allowance under the MAP–21 IFR for providing an assurance related to the occupant protection plan no longer applies.

programs and safety considerations in moving highway safety laws forward, the agency does not believe any changes are warranted.

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

This criterion requires a lower seat belt use rate State to ''conduct sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year.'' The agency is amending this criterion to clarify that sustained enforcement must include a program of recurring seat belt and child restraint enforcement efforts throughout the year, and that it must be in addition to the Click it or Ticket mobilization. The agency is also amending the defined level of participation to require that it be based on problem identification in the State. States will be 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)) States should include information related to seat belt enforcement in these sections of the HSP. In this discussion, States must describe efforts to integrate seat belt enforcement into routine traffic enforcement throughout the year and engage law enforcement agencies in at-risk locations with high numbers of unrestrained fatalities to increase seat belt use throughout the year. The use of a few scheduled efforts to promote seatbelt use will not be sufficient to meet the standard of sustained enforcement. The agency is requiring that States submit the seat belt enforcement application material as part of the HSP, in lieu of a separate submission.

iii. High Risk Population Countermeasure Programs. (23 CFR 1300.21(e)(4))

As noted earlier, States are already required to cover the occupant protection program area, including an evidence-based traffic safety enforcement program and planned high-visibility enforcement strategies to support national mobilizations, in the HSP. These sections of the HSP contain many of the same elements to address high risk populations, such as problem identification, countermeasure strategies and projects to meet performance targets. If a State wishes to qualify under this criterion, it should include information related to at least two at-risk populations in those sections of the HSP. The agency is requiring that States submit high risk population countermeasure program materials as part of the HSP, in lieu of a separate submission.

iv. Comprehensive Occupant Protection Program. (23 CFR 1300.21(e)(5))

A lower seat belt use rate State must implement a comprehensive occupant protection program in which the State has conducted a NHTSA-facilitated program assessment, developed a Statewide strategic plan, designated an occupant protection coordinator, and established a Statewide occupant protection task force. The MAP–21 IFR permitted an assessment reaching back to 2005. Today's IFR includes an amendment to require that States have a more recent assessment of their program (within five years prior to the application date). Today's IFR also makes updates to the program requirements to emphasize the importance of a comprehensive occupant protection program that is based on data and designed to achieve performance targets set by the States. The IFR also stresses the importance of the occupant protection coordinator's role in managing the entire Statewide program. With enhanced knowledge of the Statewide program and activities, a strategic approach to the development of the occupant protection program area of the annual HSP can be developed and executed.

4. Use of Grant Funds. (23 CFR 1300.21(f))

In addition to listing all the qualifying uses, the agency has reorganized this section under the IFR to list special rules that cover any other statutory requirement conditioning how grant funds are spent. Specifically, high belt use rate States are now permitted to use up to 100 percent of their occupant protection funds for any project or activity eligible for funding under section 402.

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

The FAST Act made no changes to the State Traffic Safety Information System Improvements Grants authorized under MAP–21. However, in this IFR, NHTSA streamlines the application process to reduce the burden on States.

In response to the MAP–21 IFR, commenters generally expressed concern that application requirements were burdensome. One commenter objected to the requirement that States submit different data for the applications for fiscal years 2013 and 2014, despite being allowed to use the same performance measures for both years. The agency does not address this comment as it is specific to those years and no longer applies. The agency addresses additional comments under the relevant headings below.

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

The role of the TRCC in the State Traffic Safety Information System Improvements Grant program under this IFR remains the same as it was under the MAP–21 IFR, but the application requirements have been streamlined. NHTSA has removed many TRCC requirements, and is instead requiring a more refined set of information in order to determine that a State's TRCC can meet the goals of the statute.

Two commenters stated that the documentation requirements for the TRCC in the MAP–21 IFR, including meeting minutes, reports and guidance, were burdensome. While it remains good practice to keep and retain meeting minutes, reports and guidance, this IFR requires submission of only the dates of the TRCC meetings held in the 12 months prior to application. In order to meet this requirement in future grant years, States will have to schedule at least 3 meetings for the upcoming fiscal year, but NHTSA no longer requires States to provide proposed dates of the meetings.

One commenter proposed reducing the required number of TRCC meetings from three times a year to twice a year. However, the statute explicitly requires that the TRCC meet at least 3 times each year. The statute also requires that the State designate a TRCC coordinator.

In order to ensure that the TRCC has a diverse membership that is able to provide necessary expertise, the State must submit a list identifying at least one member (including the member's home organization), that represents each of the following core safety databases: (1) Crash, (2) citation or adjudication, (3) driver, (4) emergency medical services/injury surveillance system, (5) roadway, and (6) vehicle databases. The State's TRCC should have a broad multidisciplinary membership that includes, among others, owners, operators, collectors and users of traffic records and public health and injury control data systems; highway safety, highway infrastructure, law enforcement or adjudication officials; and public health, emergency medical services (EMS), injury control, driver licensing and motor carrier agencies and

organizations. This diverse membership should serve to ensure that the TRCC has the authority and ability to access and review any of the State's highway safety data and traffic records systems.

2. Strategic Plan Requirement. (23 CFR 1300.22(b)(2))

This IFR requires a State to have a traffic records strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable anticipated improvements in the State's core safety databases. More information on the requirements for performance measures is set forth in Section IV.D.3 below.

The Strategic Plan must identify all recommendations from the State's most recent traffic records system assessment and explain how each recommendation will be implemented or the reason a recommendation will not be addressed. One commenter stated that the requirement that a State explain why it will not address a particular recommendation is too burdensome and should be removed. However, NHTSA believes that the State's response to each recommendation, even those that it decides not to address, is necessary to ensure that the assessment recommendations serve their intended purpose of improving the State traffic safety information system. In order to emphasize the importance of coordinating the traffic records strategic plan with the State HSP, this IFR requires the State to identify the project in the HSP that will address each recommendation to be addressed in that fiscal year.

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

Continuing the emphasis on performance measures and measurable progress, this IFR requires the State to provide a written description of the State's chosen performance measures along with supporting documentation. Performance measures must use the methodology set forth in the Model Performance Measures for State Traffic Records Systems (DOT HS 811 441) collaboratively developed by NHTSA and GHSA. Because NHTSA and GHSA may update this publication in future years, and intend the most recent version to be used, this IFR adds the language ''as updated.'' The Model Minimum Uniform Crash Criteria (MMUCC), the Model Impaired Driving Records Information System (MIDRIS), the Model Inventory of Roadway Elements (MIRE) and the National Emergency Medical Services Information System (NEMSIS) model data sets continue to be central to States' efforts to improve their highway safety data and traffic records systems. For this reason, NHTSA strongly encourages States to achieve a higher level of compliance with a national model inventory in order to demonstrate measurable progress.

To satisfy this quantitative progress requirement, the State must submit supporting documentation demonstrating that quantitative improvement was achieved within the preceding 12 months. The documentation must cover a contiguous 12 month performance period preceding the date of application starting no earlier than April of the preceding calendar year as well as a comparative 12 month baseline period. In the fiscal year 2017 application, for example, a State would submit documentation covering a performance period starting no earlier than April 1, 2015, and extending through March 31, 2016, and a baseline period starting no earlier than April 1, 2014, and extending through March 31, 2015. Acceptable supporting documentation will vary depending on the performance measure and database used, but may include analysis spreadsheets, system screen shots of the related query and aggregate results.

States are strongly encouraged to submit one or more voluntary interim progress reports to their Regional office documenting performance measures and supporting data that demonstrate quantitative progress in relation to one or more of the six significant data program attributes. NHTSA recommends submission of the interim progress reports prior to the application due date to provide time for the agency to interact with the State to obtain any additional information needed to verify the State's quantifiable, measurable progress. However, Regional office review of an interim progress report does not constitute pre-approval of the performance measure for the grant application.

4. Requirement To Conduct or Update a Traffic Records System Assessment. (23 CFR 1300.22(b)(4))

This IFR requires that a State's certification be based on an assessment that complies with the procedures and methodologies outlined in NHTSA's Traffic Records Highway Safety Program Advisory. As in the past, NHTSA will continue to conduct State assessments that meet the requirements of this section without charge, subject to the availability of funding.

5. Use of Grant Funds. (23 CFR 1300.22(d))

States may use grant funds awarded under this subsection for making data program improvements to their core highway safety databases (including crash, citation and adjudication, driver, EMS or injury surveillance system, roadway and vehicle databases) related to quantifiable, measurable progress in any of the significant data program attributes of accuracy, completeness, timeliness, uniformity, accessibility or integration. This IFR makes no change to the allowable use of funds under this grant program.

E. Impaired Driving Countermeasures Grants. (23 CFR 1300.23)

The FAST Act did not make substantive changes to the basic impaired driving countermeasures grants authorized under MAP–21, but added flexibility to the separate grant program for States with mandatory ignition interlock laws and created a new grant for States with 24–7 sobriety programs.

1. Determination of Range for Impaired Driving Countermeasures Grants

The FAST Act made no changes to the classification of low-, mid- and high-range States and to the use of average impaired driving fatality rates to determine what requirements a State must meet in order to receive a grant. This IFR retains those requirements in the MAP–21 IFR. To provide ample time to meet any application requirements, the agency will make the classification information available to the States in January each year.

2. Low-Range States. (23 CFR 1300.23(d))

States that have an average impaired driving fatality rate of 0.30 or lower are considered low-range States. Under the MAP–21 IFR, all States, including low-range States, were required to submit certain assurances indicating their intent to meet statutory requirements related to qualifying uses of funds and maintenance of effort requirements. This IFR makes no changes to that requirement.

3. Mid-Range States. (23 CFR 1300.23(e))

States that have an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60 are considered mid-range States. The statute specifies that States qualifying as mid-range States are required to submit a Statewide impaired driving plan that addresses the problem of impaired driving. The submitted plan must have

been developed by a Statewide impaired driving task force within three years prior to the application due date.[6]

In an effort to streamline the application process developed under the MAP–21 IFR, mid-range States will be required to submit only a single document (in addition to any required certifications and assurances)—a Statewide impaired driving plan—to demonstrate compliance with the statute. In the past, a wide-range of formats and efforts were used by States to meet the plan requirements. In this IFR, the agency is requiring the use of a uniform format. Compliance will be determined based on the review of three specific sections.

The first section requires the State to provide a narrative statement that explains the authority of the task force to operate and describes the process used by the task force to develop and approve the plan. The State must also identify the date of approval of the plan in this section. This information will allow the agency to determine compliance with the requirement that the impaired driving plan be developed by a task force within three years prior to the application due date.

The second section continues the MAP–21 IFR requirement for a list of task force members. This IFR clarifies that the list must include the names, titles and organizations of all task force members. From that information, the agency must be able to determine that the task force includes key stakeholders from the State highway safety agency, State law enforcement groups, and the State's criminal justice system, covering areas such as prosecution, adjudication, and probation. The State may include other individuals on the task force, as determined appropriate, from areas such as 24–7 sobriety programs, driver licensing, data and traffic records, treatment and rehabilitation, public health, communication, alcohol beverage control, and ignition interlock programs. The State must include a variety of individuals from different offices that bring different perspectives and experiences to the task force. Such an approach ensures that the required plan will be a comprehensive treatment of impaired driving issues in a State. For guidance on the development of these types of task forces, we encourage States to review the NHTSA report entitled, ''A Guide for State-wide Impaired Driving Task Forces.'' [7]

The final section requires the State to provide its strategic plan for preventing and reducing impaired driving behavior. The agency is requiring that an impaired driving plan be organized in accordance with Highway Safety Program Guideline No. 8—Impaired Driving (''the Guideline'') [8] and cover certain identified areas. The identified areas include prevention, criminal justice system, communications programs, alcohol and other drug misuse, and program evaluation and data. Each area is defined within the Guideline. States are free to cover other areas in their plans provided the areas meet one of the qualifying uses of funds (as identified in the FAST Act), but the plans must cover the identified areas. Plans that do not cover these areas are not eligible to receive a grant.

While NHTSA has identified the areas that must be considered, the agency has not defined a level of effort that must be exerted by the State in the development of the strategic plan (*e.g.,* how many task force meetings should be held; how many hours should be spent considering these issues). The agency expects that States will spend the time necessary to consider and address these important issues, in view of the substantial amount of grant funds involved. In our view, an optimal process involves a task force of 10 to 15 members from different impaired driving disciplines, meeting on a regular basis (at least initially), to review and apply the principles of the Guideline to the State's impaired driving issues and to determine which aspects of the Guideline deserve special focus. The result of that process should be a comprehensive strategic plan that forms the State's basis to address impaired driving issues.

To receive a grant in subsequent years, once a plan has been approved, a mid-range State is required to submit the certifications and assurances covering qualifying uses of funds, maintenance of effort requirements, and use of previously submitted plan (as applicable). This assurance about the previously submitted plan does not apply to a Statewide plan that has been revised. In that case, the State is required to submit the revised Statewide plan for review to determine compliance with the statute and implementing regulation.

4. High-Range States. (23 CFR 1300.23(f))

States that have an average impaired driving fatality rate that is 0.60 or higher are considered high-range States. High-range States are required to have conducted an assessment of the State's impaired driving program within the three years prior to the application due date.[9] This IFR continues to define an assessment as a NHTSA-facilitated process.

Based on this assessment, a high-range State is required to convene an impaired driving task force to develop a Statewide impaired driving plan (both the task force and plan requirements are described in the preceding section under mid-range States). In addition to meeting the requirements associated with developing a Statewide impaired driving plan, the plan also must include a separate section that expressly addresses the recommendations from the required assessment. The assessment review should be an obvious section of a high-range plan. A high-range State must address each of the recommendations in the assessment and explain how it intends to carry out each recommendation (or explain why it cannot carry out a recommendation).

The plan also must include a section that provides a detailed project list for spending grant funds on impaired driving activities, which must include high-visibility enforcement efforts as one of the projects (required by statute). The section also must include a description of how the spending supports the State's impaired driving program and achievement of its performance targets.

To receive a grant in subsequent years, the State's impaired driving task force must update the Statewide plan and submit the updated plan for NHTSA's review and comment. The statutory requirements also include

[6] The first year allowance under the MAP–21 IFR for providing an assurance that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan no longer applies. Because the FAST Act continues the impaired driving countermeasures grant without substantive change, the agency interprets the first year of the grant as the first year that the impaired driving countermeasure grants were awarded, *i.e.,* fiscal year 2013. Accordingly, States no longer have the option to provide assurances that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan.

[7] The guide is *Available at http://www.nhtsa.gov/Driving+Safety/Impaired+Driving/A+Guide+for+Local+Impaired-Driving+Task+Forces.*

[8] The guideline is *Available at http://www.nhtsa.gov/nhtsa/whatsup/tea21/tea21programs/pages/ImpairedDriving.htm.*

[9] The first year allowance under the MAP–21 IFR for providing an assurance that the State will conduct an assessment of the State's impaired driving program and convene a statewide impaired driving task force to develop a statewide impaired driving plan no longer applies. Because the FAST Act continues the impaired driving countermeasures grant without substantive change, the agency interprets the first year of the grant as the first year that the impaired driving countermeasure grants were awarded, *i.e.,* fiscal year 2013. Accordingly, States no longer have the option to provide assurances that the State will conduct an assessment of the State's impaired driving program and convene a statewide impaired driving task force to develop a statewide impaired driving plan.

updating the assessment review and the spending plan and submitting those for approval.

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

The FAST Act continues a separate grant program for States that adopt and enforce mandatory alcohol-ignition interlock laws covering all individuals convicted of a DUI offense, but adds flexibility for States to qualify for a grant. The FAST Act amends the program to include exceptions that allow an individual to drive a vehicle in certain situations without an interlock. Specifically, a State's law may include exceptions from mandatory interlock use in the following three situations: (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 (''employment exception''); (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 (''medical exception''); or (3) a State-certified ignition interlock provider is not available within 100 miles of the individual's residence (''locality exception''). In response to the statutory change, the agency has included these exceptions in the IFR.

In this IFR, the agency increases the minimum period that a State law must authorize an offender to use an ignition interlock from 30 days to six months. Under the MAP–21 IFR, the agency required only 30 days as the minimum period because no exceptions were permitted from the mandatory requirement to use an interlock. With the addition of the exceptions under the FAST Act, States are afforded significantly more flexibility in their interlock programs, and the justification for allowing a shorter period of interlock use no longer exists. This is also consistent with comments the agency received under the MAP–21 IFR, urging the agency to adopt a longer restriction. These comments asserted that several States require interlock use for offenders for six months or more, and that the agency should adopt a period consistent with these existing State laws. The laws identified by the commenters were examples that contained exceptions, and would not have qualified under the MAP–21 IFR for that reason. We recognize that several States amended their laws, removing exceptions in order to comply with the grant requirements under the MAP–21 IFR. In all cases, these amended laws required interlock use for at least six months, despite the 30-day requirement in the MAP–21 IFR. With the addition of permissible exceptions under the FAST Act, we do not believe that the six-month duration requirement is an onerous one.

Under the MAP–21 IFR, the agency received several other comments regarding these grants, including a criticism of the program under the assumption that taxpayers typically pay for interlock programs. In fact, States often defray their own program costs by making the offender, and not taxpayers, responsible for the costs associated with the installation and maintenance of an interlock. We believe that interlock programs should be part of every State's strategy for eliminating impaired driving. Strong evidence exists supporting the effectiveness of interlock programs for reducing drunk driving recidivism while the technology is installed on an individual's vehicle.[10]

Among several comments that were supportive of the grant program, one commenter requested that the agency add criteria to the interlock requirements beyond those stated in the statute. Since the statute directs the basis for qualification, we decline to include other requirements. We agree, however, with the comment that States should consider agency-supported studies and materials that identify and explain best practices for improving ignition interlock programs.[11]

In order to qualify, a State must submit legal citations to its mandatory ignition interlock laws each year with its application. In accordance with the statute, not more than 12 percent of the total amount available for impaired driving countermeasures grants may be used to fund these grants. The agency plans to continue to calculate the award amounts for this program in the same manner as it did under the MAP–21 IFR. This IFR makes no change to this provision.

At present, few States qualify for these grants. To avoid the circumstance where a relatively few States might receive large grant amounts, the agency may choose to reduce the percent of total funding made available for these grants, consistent with the flexibility afforded by the statute, which specifies that ''not more than 12 percent'' may be made available for these grants.

6. 24–7 Sobriety Program Grants. (23 CFR 1300.23(h))

The FAST Act includes a separate grant program for States that meet requirements associated with having a 24–7 sobriety program. NHTSA recognizes the value of impaired driving interventions such as 24–7 sobriety programs. The agency acknowledges that the effectiveness of such programs is likely associated with their alignment with traditional principles of deterrence: *swift and certain.* 24–7 sobriety programs typically approach this deterrence model by focusing on the most high-risk offenders, requiring abstinence from alcohol or illegal drugs, testing compliance multiple times per day, and swiftly delivering defined consequences for noncompliance.

Under this provision, grants are provided to States that meet two separate requirements, and this IFR implements these requirements. 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. Under this first requirement, the license restriction must apply for at least a 30-day period. The IFR adds a definition of the term ''restriction on driving privileges'' to clarify the type of restrictions that comply and to make clear that States have broad flexibility in meeting the requirement. The definition covers any type of State-imposed limitation and provides examples of the most common restrictions, including license revocations or suspensions, location restrictions, alcohol-ignition interlock device requirements or alcohol use prohibitions.

The second requirement mandates that a State provide a 24–7 sobriety program. Under the statute, a 24–7 sobriety program means a State law or program that authorizes a State court or an agency with jurisdiction to require an individual who has committed a DUI offense to abstain totally from alcohol or drugs for a period of time and be subject to testing for alcohol or drugs at least twice per day at a testing location, by continuous transdermal monitoring device, or by an alternative method approved by NHTSA. In order to comply, the State must be able to point to a law or program that meets this requirement. Also, the law or program must have Statewide applicability. Although the law or program need not

[10] Raub, R.A., Lucke, R.E., & Wark, R.I., *Breath Alcohol Ignition Interlock Devices: Controlling the Recidivist.* Traffic Injury Prevention 4, p. 199–205 (2013).

[11] Mayer, R., *Ignition Interlocks–What You Need to Know: A Toolkit for Program Administrators, Policymakers, and Stakeholders, 2nd Ed.,* DOT–HS–811–883 (Washington, DC: National Highway Traffic Safety Administration, 2014). A*vailable at http://www.nhtsa.gov/staticfiles/nti/pdf/IgnitionInterlocks_811883.pdf; Model Guideline for State Ignition Interlock Programs,* DOT–HS–811–859 (Washington, DC: National Highway Traffic Safety Administration, 2013). Available at *http://www.nhtsa.gov/staticfiles/nti/pdf/811859.pdf.*

require that every DUI offender be subject to a 24–7 sobriety program, it must be authorized to apply on a Statewide basis. Consequently, a pilot program that may be in use in a small portion of a State or a program that is based solely at a local government level (*e.g.,* county-based) would not be eligible for these funds. However, States that qualify for a general impaired driving countermeasures grant may use those funds to support 24–7 sobriety pilot programs or county programs.

In line with the statutory definition, a compliant law or program must use certain types of testing to regularly monitor DUI offenders under the 24–7 sobriety program. Under the MAP–21 IFR, the agency received comments suggesting additional testing methods and minimum performance requirements for testing devices. However, we do not believe that approach is necessary. The statute defines a testing process that States must apply to offenders in a 24–7 program. Specifically, in accordance with the definition, an offender must be subject to testing for alcohol or drugs at least twice per day at a testing location, or by continuous monitoring via electronic monitoring device, or by an alternative method approved by NHTSA. If the State uses these types of identified test methods, it will be eligible to receive a grant. Although the agency does not identify additional testing methods or set specific performance requirements in this IFR, it reserves the right to do so, consistent with the statutory allowance for alternative methods to be approved. Any additional testing method that might be approved must allow the program to meet the general deterrence model discussed above, ensuring a swift and certain response from the State for program violators. For example, a method used for alcohol testing should be conducted at least twice per day and a method used for drug testing should be conducted on at least a scheduled basis. In addition, the periods for testing must be clear in the law or program cited, so that a State has the ability to take swift action. For these requirements, covering the types and periods of testing that should be used in 24–7 sobriety programs, we are particularly interested in public comments.

Under the MAP–21 IFR, the agency received several comments regarding the inclusion of 24–7 sobriety programs as a qualifying use of grant funds. The prior IFR simply added the statutory definition without intended change.[12] States that met this definition were allowed to use grant funds for a 24–7 sobriety program. One commenter indicated that the statute contained a drafting mistake and that participating offenders under a 24–7 sobriety program were required to be tested for both drugs *and* alcohol to meet the definition, instead of for drugs *or* alcohol as stated in MAP–21 (and included without change in the FAST Act). A separate commenter disagreed with this position. In reviewing this issue, we find no evidence to suggest that Congress intended something different in the statutory definition provided. Since the purpose of the section covers grants to States for programs designed to reduce driving under the influence of alcohol, drugs, or a the combination of alcohol and drugs, we believe that the definition for testing under 24–7 sobriety programs also applies to any one of these circumstances. Consistent with the statutory language, States have the flexibility to test offenders for alcohol, drugs or a combination of both to meet program requirements.

In order to qualify, a State must submit the required legal citations or program information by the application deadline. A State wishing to receive a grant is required to submit legal citations to its law authorizing a restriction on driving privileges for all DUI offenders for at least 30 days. The State must also submit legal citations to its law or a copy of its program information that authorizes a Statewide 24–7 sobriety program.

In accordance with the statute, not more than 3 percent of the total amount available under this section may be used to fund these grants. The agency plans to calculate award amounts in the same manner as for Alcohol-Ignition Interlock Law Grants. Amounts not used for these grants will be used for grants to low-, mid- and high-range States. The agency believes it is possible that few States will initially qualify for a grant. Therefore, as with Alcohol-Ignition Interlock Law Grants, the agency may choose to reduce the percent of total funding made available for these grants, consistent with the flexibility afforded by the statute, which specifies that ''not more than 3 percent'' may be made available for these grants.

7. Use of Grant Funds. (23 CFR 1300.23(i))

States may use grant funds for any of the uses identified in the FAST Act. In this IFR, the agency includes definitions for some of the uses. In all cases, the definitions are consistent with those provided for in the FAST Act or were developed under the MAP–21 IFR. The agency received comments related to a State's ability to fund certain projects using grant funds provided for impaired driving countermeasures. These comments related to the use of funds for specific impaired driving programs, arguing for specific approaches over others and for more funds to be spent on drug impaired driving programs. In general, we agree that States should use several different types of programs as part of a comprehensive approach to addressing impaired driving. However, the programs for which grant funds may be used are limited to those identified by Congress in the statute. We choose not to prioritize one type of authorized program over another, and qualifying States may use the funds on any of the identified programs. Unless the program is specifically identified to alcohol enforcement, grant funds may be used for programs identified in statute that address the problem of drug-impaired driving. We encourage States to have programs that focus on this growing problem.

In addition to listing all the qualifying uses, the agency has reorganized this section under today's IFR to list special rules that cover any other statutory requirements conditioning how grant funds are spent. For low-range States, grant funds may be used for any of the projects identified in the statute and for those designed to reduce impaired driving based on problem identification. In addition, low-range States may use up to 50 percent of grant funds for any eligible project or activity under Section 402.

For mid-range States, grant funds may be used for any of the projects identified in the statute and for projects designed to reduce impaired driving based on problem identification, provided the State has received advance approval from NHTSA for such projects based on problem identification. The agency received one comment questioning the approval requirement under the MAP–21 IFR. However, that requirement is a statutory one. Although the requirement did not appear in SAFETEA–LU, it was added by Congress in MAP–21 and continued under the FAST Act. We agree with the commenter that programs based on problem identification included in the application of a mid-range State that receives approval do not need further review. However, if the State creates a separate spending plan in its HSP based on its Statewide impaired driving plan and later revises that plan,

[12] Several commenters noted the typographical error in the IFR. We have corrected the definition here.

it will be required to receive approval for that revision, consistent with the statutory requirement.

High-range States may use grant funds for the projects identified above only after submission of a Statewide impaired driving plan, and review and approval of the plan by NHTSA. States receiving Alcohol-Ignition Interlock Law Grants or 24–7 Sobriety Program Grants may use those grant funds for any of the projects identified and for any eligible project or activity under Section 402.

F. Distracted Driving Grants. (23 CFR 1300.24)

MAP–21 created a new program authorizing incentive grants to States that enact and enforce laws prohibiting distracted driving. Few States qualified for a Distracted Driving Grant under the statutory requirements of MAP–21. The FAST Act amended the qualification criteria for a Distracted Driving Grant, revising the requirements for a Comprehensive Distracted Driving Grant and providing for Special Distracted Driving Grants for States that do not qualify for a Comprehensive Distracted Driving Grant.

1. Qualification Criteria for a Comprehensive Distracted Driving Grant. (23 CFR 1300.24(c))

The basis for a Comprehensive Distracted Driving Grant is a requirement that the State tests for distracted driving issues on the driver's license examination and that the State have a statute that complies with the criteria set forth in 23 U.S.C. 405(e), as amended by the FAST Act. Specifically, the State must have a conforming law that prohibits texting while driving and youth cell phone use while driving.

i. Testing Distracted Driving Issues. (23 CFR 1300.24(c)(1))

To qualify for a grant under MAP–21, the State statute had to require distracted driving issues to be tested as part of the State driver's license examination. Few States met this requirement. In response to the MAP–21 IFR, one commenter disagreed with this requirement and believed that the State should be able to certify that State driver licensing examinations tested for distracted driving questions. The agency need not address this comment because it is no longer applicable. The FAST Act amended this requirement to allow a State to qualify for a grant if it does, in fact, test for distracted driving issues on the driver's license examination, without the need for a statutory mandate. To demonstrate that it tests for distracted driving issues under today's IFR, the State must submit sample distracted driving questions from its driver's license examination as part of its application.

ii. Definition of Driving. (23 CFR 1300.24(b)

The FAST Act amended the definition of ''driving'' to strike the words ''including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise''. As amended, ''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.'' The IFR adopts this definition without change.

iii. Texting Prohibition. (23 CFR 1300.24(c)(2)(i))

The FAST Act retained much of the MAP–21 requirements related to the texting prohibition, including the types of behaviors prohibited, primary enforcement, and a minimum fine. Those provisions are retained in this section. The FAST Act removed the requirement for increased fines for repeat violations and added the requirement that the State statute may not include an exemption that specifically allows a driver to text through a personal wireless communications device while stopped in traffic. Those FAST Act amendments are adopted in this section without change.

iv. Youth Cell Phone Use Prohibition. (23 CFR 1300.24(c)(2)(ii))

The FAST Act retained much of the MAP–21 requirements related to the prohibition on young drivers using a personal wireless communications device while driving, including the types of behaviors prohibited, and the requirements for primary enforcement and a minimum fine. Those provisions are retained in this section.

MAP–21 required the State statute to prohibit a driver who is younger than 18 years of age from using a personal wireless communications device while driving. The FAST Act amended this provision to allow a State to qualify for a grant if the State statute prohibited a driver under 18 years of age or a driver with a learner's permit or intermediate license from using a personal wireless communications device while driving. As with the texting prohibition, the FAST Act removed the requirement for increased fines for repeat violations and added the requirement that the State statute not include an exemption that specifically allows a driver to text through a personal wireless communications device while stopped in traffic. Those FAST Act amendments are adopted in this section without change.

2. Use of Comprehensive Distracted Driving Grant Funds. (23 CFR 1300.24(d))

MAP–21 provided that each State that receives a Section 405(e) grant must use at least 50 percent of the grant funds for specific distracted driving related activities and up to 50 percent for any eligible project or activity under Section 402. In addition to listing all the qualifying uses, the agency has reorganized this section under today's IFR to list special rules that cover any other statutory requirement conditioning how grant funds are spent.

The FAST Act allows a State to use up to 75 percent of Section 405(e) funds 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), a voluntary guideline designed to help States determine what crash data to collect on their police accident reports (PARs) and what data to code and carry in their crash databases. 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), NHTSA and the Governors Highway Safety Association developed a methodology for mapping the data collected on PARs and the data entered and maintained on crash databases to the data elements and attributes in the MMUCC Guideline. This methodology will be the basis for determining whether a State has conformed its distracted driving data to the most recent MMUCC. Because NHTSA may update this publication in future years, and intends the most recent version to be used, this IFR adds the language ''as updated.'' If a State qualifies for a Comprehensive Distracted Driving Grant, the State must demonstrate that its distracted driving data collection conforms with MMUCC, *i.e.,* is 100 percent mappable. NHTSA intends to develop an excel spreadsheet that States may use to demonstrate that their distracted driving data collection conforms with MMUCC. States must submit the executed spreadsheet showing 100 percent mappable distracted driving data collection within 30 days after award notification.

3. Special Distracted Driving Grants. (23 CFR 1300.24(e)(3))

The FAST Act authorized additional distracted driving grants for those States that do not qualify for a Comprehensive Distracted Driving Grant for fiscal years 2017 and 2018. In this IFR, the agency refers to these additional distracted driving grants as ''Special Distracted Driving Grants.'' For fiscal year 2017, a State qualifies for a Special Distracted Driving Grant if it has a ''basic text messaging statute'' that is enforced on a primary or secondary basis and the State does not qualify for a Comprehensive Distracted Driving Grant. The statute uses the term, ''basic text messaging statute,'' but does not define it. The agency believes the intent was to distinguish ''basic text messaging'' from ''texting'' as defined by MAP–21 (and unchanged by the FAST Act). For this reason, the agency is defining ''basic text messaging statute'' as a statute that prohibits a driver from manually inputting or reading from an electronic device while driving for the purpose of written communication.

The requirements for a Special Distracted Driving Grant become stricter in fiscal year 2018. In addition to the requirement for a basic text messaging statute, the State must also enforce the law on a primary basis, impose a fine for a violation of the law, and prohibit drivers under the age of 18 from using a personal wireless communications device while driving. As is the case for fiscal year 2017, the State must also not qualify for a Comprehensive Distracted Driving Grant. The IFR adopts these statutory provisions without change.

The FAST Act specifies allowable uses for grant funds—activities related to the enforcement of distracted driving laws, including public information and awareness. In addition, States may use up to 15 percent of the grant funds in fiscal year 2017 and 25 percent in fiscal year 2018 for any eligible project or activity under Section 402. This IFR makes no change to the allowable use of funds under this grant program.

G. Motorcyclist Safety Grants. (23 CFR 1300.25)

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, which authorized the Motorcyclist Safety Grants under section 2010. MAP–21 adopted the SAFETEA–LU Motorcyclist Safety Grants largely unchanged. (23 U.S.C. 405(f)) The Fast Act amended the Motorcyclist Safety grants to address the allocation of funds, provide flexibility in the use of funds, and add a requirement that the Secretary update and provide to the States model Share The Road language. The FAST Act did not amend the qualifications for the Motorcyclist Safety grants, which remain the same as under MAP–21. States qualify for a grant by meeting two of the following six grant criteria: Motorcycle Rider Training Courses; Motorcyclists Awareness Program; Reduction of Fatalities and Crashes Involving Motorcycles; Impaired Driving Program; Reduction of Fatalities and Accidents Involving Impaired Motorcyclists; and Use of Fees Collected from Motorcyclists for Motorcycle Programs. (23 U.S.C. 405(f)(3)). To streamline the application process for section 405 grants, this IFR amends the six grant criteria to require that materials demonstrating compliance for each criterion be submitted with the State's HSP.

1. General Revision to the Six Motorcyclist Safety Grant Criteria

Prior to today's IFR, the Motorcyclist Safety Grant regulation first identified the elements to satisfy a specific criterion and then the elements to demonstrate compliance. In general, States provided application information and data as attachments to their HSP. This approach required States to submit a significant number of documents and data, and often required the States and the agency to engage in additional efforts to clarify whether a State demonstrated compliance. Today's IFR streamlines the regulatory text for each of the six Motorcyclist Safety Grant criteria and reduces State application burdens for a Motorcyclist Safety Grant. This IFR eliminates the requirement for separate submissions to satisfy each criterion, as long as the relevant required information is included in the HSP. This approach is intended to shift the focus to ensure that each State bases its motorcycle safety programs on data-driven problem identification and countermeasures to meet the criteria for a Motorcycle Safety Grant.

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

To qualify for a grant under this criterion, section 405(f)(3)(A) requires a State to have ''an effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs.'' Based upon many years of experience in administering the Motorcycle Safety Grants, the agency is reevaluating the requirements to demonstrate compliance with this criterion. At this time, every State has adopted an established motorcycle rider training program that is a result of a systematic and standardized approach to teach crash avoidance and the safe operation of motorcycles. Therefore, States will no longer be required to submit multiple documents to justify and support the selected training curriculum. Instead, States must use one of the following four identified training programs: 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). These curricula are well-established, formal instruction programs in common use across the United States. Each of them has been formalized and standardized through scientific research and field testing. And, each offers instruction in crash avoidance, motorcycle operation and other safety-oriented skills that require in-class instruction and on-the-motorcycle training, provide certified trainers, and have institutionalized quality control measures. With the requirement to use one of these well-established training courses, the need for documentation establishing the merits of the training course no longer exists.

In lieu of the previously required documentation submission, today's IFR instead requires a certification from the Governor's Representative for Highway Safety identifying the head of the designated State authority having jurisdiction over motorcyclist safety issues and that head of the designated State authority having jurisdiction over motorcyclist safety issues has approved and the State has adopted and uses one of these four established and standardized introductory motorcycle rider curricula. Alternatively, in order to allow development of training that meets unique regional needs, the IFR permits the Governor's Representative for Highway Safety to certify that head of the designated State authority has approved and the State has adopted and uses a curriculum that meets NHTSA's Model National Standards for Entry-Level Motorcycle Rider Training. Such curriculum must have been approved by NHTSA as meeting NHTSA's Model National Standards for Entry-Level Motorcycle Rider Training before the application.

The statute requires the State motorcycle rider training program to be Statewide. (23 U.S.C. 405(f)(e)) To meet

this requirement, today's IFR requires the State to provide a list of the counties or political subdivisions in the State where motorcycle rider training courses will be conducted in the 12 months of the fiscal year of the grant and the corresponding number of registered motorcycles in each county or political subdivision, according to official State motor vehicle records, provided that the State offers at least one motorcycle rider training course in counties or political subdivisions that collectively account for a majority of the State's registered motorcycles.

Finally, to meet this criterion, the State must submit the official State document identifying the designated State authority having jurisdiction over motorcyclist safety issues, as was required under the MAP–21 IFR.

3. Motorcycle Awareness Program, (23 CFR 1300.25(e))

To qualify under this criterion, a State must 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.'' (23 U.S.C. 405(f)(3)(B)) The statute defines Motorcycle Awareness Program as ''an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the governor of the State.'' (23. U.S.C. 405(f)(5)(B)) Motorcycle Awareness is also defined by the statute to mean ''individual or collective awareness of (i) the presence of motorcycles on or near roadways; and (ii) safe driving practices that avoid injury to motorcyclists.'' (23 U.S.C. 405(f)(5)(C)) The FAST Act did not amend the statutory criterion or these definitions.

The agency is streamlining the submission requirements under this criterion. Today's IFR continues to require the State's Motorcycle Awareness Program to be developed by, or in coordination with, the designated State authority having jurisdiction over motorcyclist safety issues. It requires a certification from the Governor's Representative for Highway Safety identifying the head of the designated State authority having jurisdiction over motorcyclist safety issues and 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 no longer requires submission of the detailed strategic communications plan. One commenter under the MAP–21 IFR stated that the requirement for a strategic communications plan did not reflect the practical realities of the program (especially considering the small amount of grant funds), and should be scaled back. The agency agrees, and we have substituted a different approach.

Based upon experience, the agency believes that State motorcycle awareness programs have not used available State crash data to its fullest extent to target specific motorcycle problem areas. Rather, the awareness programs have been based upon generalized use of crash data that has resulted in messages and slogans that bear little relation to the causes of motorcycle crashes. Therefore, to demonstrate that a State is implementing a data-driven State awareness program that targets problem areas, this IFR requires 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. True data-driven problem identification and prioritization will take into account crash location and causation in the development of specific countermeasures.

In the problem identification process, the State must use crash data queries to determine, at a minimum, the jurisdictions with the highest to lowest number of multi-vehicle crashes involving motorcycles. The State must select countermeasure strategies and projects implementing the motorist awareness activities based on the geographic location of crashes. For example, if a State plans to procure a digital media buy aimed at educating motorists about speed variability and blind spots, it should specify in which counties the digital media buy will take place to effectuate the statutory requirement that the motorcycle awareness program be Statewide. Creating awareness messages infrequently during the year or in only a few geographic locations will not be sufficient to meet the requirement for a Statewide awareness program. Today's IFR provides the State flexibility to address specific motorcycle awareness issues while focusing the State's resources to target motorist behaviors or geographic area based upon problem identification.

4. Impaired Driving Program. (23 CFR 1300.25(h))

Previously, a State had to submit separate data and specific countermeasures to reduce impaired motorcycle operation. This requirement was separate from the performance measures, targets and countermeasure strategies required in the HSP under § 1300.11. Today's IFR directs States to use the HSP process of problem identification, performance measures and targets, and countermeasure strategies to apply under this criterion. A State must provide performance measures and corresponding performance targets developed to reduce impaired motorcycle operation in its HSP in accordance with § 1300.11(c). In addition, the State must list the countermeasure strategies and projects the State plans to implement to achieve its performance targets in the HSP.

5. Criteria With No Substantive Amendments

i. Reduction of Fatalities and Crashes Involving Motorcycles. (23 CFR 1300.25(g); Reduction in Fatalities and Accidents Involving Impaired Motorcyclists. (23 CFR 1300.25(i))

Today's action makes no structural amendments to two criteria—reduction of fatalities and crashes involving motorcycles and reduction in fatalities and accidents involving impaired motorcyclists. However, to provide additional flexibility, the IFR amends the age of the data that States must use. Specifically, the IFR allows States to use FARS data from up to three calendar years before the application date. The agency will make this information available to the States in January each year.

ii. Use of Fees Collected From Motorcyclists for Motorcycle Programs. (23 CFR 1300.25(j))

Today's action does not make any changes to this criterion. However, the agency is explaining its requirements in further detail to better assist States in demonstrating compliance and to address some continuing confusion.

To be eligible for a Motorcyclist Safety Grant under this criterion, the Federal statute requires that ''[a]ll fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety purposes.'' (23 U.S.C. 405(f)(3)(F)) This requires a State to take two actions with respect to fees for motorcyclist training: (1) Collect and deposit all the fees from motorcyclists; and (2) distribute all fees collected, without diversion, for training and safety programs. Whether a State applies as a ''Law State'' or a ''Data State'' under this criterion, NHTSA requires

sufficient documentation to show that the State's process does not permit any diversion.

In response to the MAP–21 IFR, one commenter raised concerns that some States might seek to transfer the fees collected for motorcycle training to other uses, thereby jeopardizing the State's ability to qualify under the Use of Fees criterion. The agency shares these concerns, and they form the basis for the requirements described below.

To confirm that a Law State has not diverted motorcyclist fees to another program, the agency requires the State to provide the citation to the law or laws collecting all fees requiring that the fees be used for motorcyclist training or safety *and* to the law appropriating the fees from the State treasury to fund the authorized program. This is so because it is possible for a State to have a law specifying that motorcycle fees are to be set aside only for training, yet divert some of these funds by subsequent appropriation. In fact, the agency has encountered this circumstance in an application under this criterion.

Under the typical legislative process, a legislature enacts two laws: One that authorizes a particular governmental action (an authorizing statute) and another that draws money from the State treasury to fund the action (an appropriation). In the typical case, appropriations are enacted annually in the State's budget process. Because an authorizing act and an appropriation are generally not enacted simultaneously, and often originate in separate legislative committees, there is the potential during the budget cycle for a diversion of motorcyclist fees to other purposes than motorcycle training or safety, even though language in the originating account may specify otherwise. For this reason, the agency requires citations to both the authorizing statute and the appropriation.

In response to the MAP–21 IFR, one commenter suggested that the agency be flexible and permit a State to demonstrate compliance without the need to submit its appropriation law as there are other laws that transfer funds without an appropriation. The commenter cites to one State's law as an example of a law that transfers motorcycle fees collected without an appropriation. That State's law provides that motorcycle fees are ''appropriated on a continual basis'' to the State Department of Transportation which shall administer the account. This is an example of a continuing appropriation, and citation to this provision would meet the requirement for a State to provide the citation to its appropriation law.[13] The agency requires the citation information described here to verify eligibility under this criterion, and declines to adopt the commenter's recommendation.

To confirm that a Data State has not diverted motorcyclist fees to another program, the State must submit detailed data and/or documentation that show that motorcyclist fees are collected and used only on motorcyclist training and safety. This requires a detailed showing from official records 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. The detailed documentation must include the account string, starting with the collection of the motorcycle fees into a specific location or account and following it to the expenditure of the funds, over a time period including the previous fiscal year. The documentation must provide NHTSA with the ability to ''follow the money'' to ensure that no diversion of funds takes place.

6. Award Limitation (23 CFR 1300.25(k))

The FAST Act amended the formula for allocation of grant funds under 23 U.S.C. 405(f), specifying that the allocation is to be in proportion to the State's apportionment under Section 402 for fiscal year 2009, instead of fiscal year 2003, bringing this grant into conformance with other Section 405 grants. In addition, the FAST Act amended the total amount a State may receive under 23 U.S.C. 405(f). Unlike the regulatory 10 percent cap identified for the other Section 405 grants in § 1300.20(e), the statute provides that a State may not receive more than 25% of its Section 402 apportionment for fiscal year 2009.

7. Use of Grant Funds (23 CFR 1300.25(l))

The FAST Act amended the eligible use of funds under this section. In addition to listing all the qualifying uses, the agency has reorganized this section under the IFR to list special rules that cover any other statutory requirement conditioning how grant funds are spent. Specifically, a State may use up to 50 percent of its grant funds under this section for any eligible project or activity under Section 402 if the State is in the lowest 25 percent of all States for motorcyclist deaths per 10,000 motorcycle registrations, based on the most recent data that conforms to criteria established by the Secretary (by delegation, NHTSA).

To determine if a State is eligible for this use of funds under Section 402, NHTSA will continue to use final FARS and FHWA registration data, as under MAP–21. Final FARS data provide the most comprehensive and quality-controlled fatality data for all 50 States, the District of Columbia, and Puerto Rico. FHWA motorcycle registration data are compiled in a single source for all 50 States, the District of Columbia, and Puerto Rico. The agency will make calculations and notify the States in January each year prior to the application due date of July 1.

8. Share the Road Model Language

The FAST Act mandates that within 1 year after its enactment, NHTSA update and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver training materials that provide instruction for drivers of motor vehicles on the importance of sharing the road safely with motorcyclists. NHTSA intends to update Share the Road language and make it available on its Web site located at *http://www.trafficsafetymarketing.gov.* In addition, the FAST Act requires a State to include the share the road language in its public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists. (23 U.S.C. 405(f)(4)(A)(iv)) Today's IFR reflects this change.

9. Response to MAP–21 IFR Comments

In response to the MAP–21 IFR, the agency received two comments that are not addressed above. One commenter recommended that a universal motorcycle helmet law be included as a requirement to qualify for a Motorcyclist Safety Grant. Because the Federal statute does not include such a requirement to qualify for the grant, we decline to adopt this recommendation. Another commenter recommended that the agency allow States to cite to internet links to meet some requirements. We decline to adopt the use of internet links, as they are subject to change and therefore provide inadequate documentation and an insufficient audit trail.

[13] The agency recognizes that certain statutes can act as both an authorization establishing the account into which the fees are deposited and a continuous appropriation (or ''revolving fund'') to pay out those fees for training, without the need for further appropriation. In such cases, the requirement to provide citations for both the statute authorizing the collection of fees and the appropriation would be met by providing a single citation to the continuous appropriation.

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

In general, a graduated driver's licensing (GDL) system consists of a multi-staged process for issuing driver's licenses to young, novice drivers to ensure that they gain valuable driving experience under controlled circumstances and demonstrate responsible driving behavior and proficiency to move through each level of the system before graduating to the next. All 50 States and the District of Columbia have enacted GDL laws as a means of providing a safe transition for novice drivers to the driving task. MAP–21 reintroduced an incentive grant for States to adopt and implement GDL laws (codified at 23 U.S.C. 405(g)). MAP–21 established a series of criteria that were prescriptive and difficult for States to meet. No State GDL incentive grants were awarded under MAP–21 due to the statute's strict compliance requirements.

The FAST Act resets the State GDL incentive grant program by significantly amending the statutory compliance criteria. It makes technical corrections, allows States additional flexibility to comply, reduces some driving restrictions, and better aligns the compliance criteria with commonly accepted best practices for GDL programs. The statutory requirements remain challenging, and it is possible that few States may comply in the first year of the revised program. However, the agency believes that because the new compliance criteria better reflect commonly accepted best practices and are more feasible for States to meet, some States will take action to amend their laws in order to qualify for a grant.

NHTSA based some of its implementation decisions in the MAP–21 IFR on research evidence, commonly accepted best practices, and public comments received under that program. Two commenters raised concerns about the agency's reliance on research evidence to establish certain qualification criteria. However, the FAST Act codified into law many of the NHTSA-established qualification criteria, including those cited by one of the commenters (minimum number of supervised behind-the-wheel training hours and nighttime driving restriction hours). As a result, NHTSA may no longer deviate from these criteria, and many of these requirements are therefore retained in this IFR.

The following sections explain the requirements of the State GDL incentive grant program under the FAST Act. In addition, the agency addresses public comments received on the MAP–21 IFR and, where appropriate, public comments received on a Notice of Proposed Rulemaking (NPRM) that NHTSA published on October 5, 2012, in the **Federal Register** seeking public comment on the statutory GDL requirements in MAP–21 (*see* 77 FR 60956).

1. Minimum Qualification Criteria

To qualify for a State GDL incentive grant, a State must submit an application with legal citations to the State statute(s) demonstrating compliance with the minimum qualification criteria specified in this IFR. (§ 1300.26(c)) Under 23 U.S.C. 405(g), as amended by the FAST Act, a State qualifies for an incentive grant if its driver's license law requires novice drivers younger than 18 years of age to comply with a ''learner's permit stage'' and an ''intermediate stage'' prior to receiving an unrestricted driver's license. (§ 1300.26(a)) Previously, under MAP–21, all novice drivers younger than 21 years of age were required to comply with such a 2-stage licensing process prior to receiving an unrestricted driver's license. This IFR reflects the statutory change from 21 years of age to 18 years of age. (§§ 1300.26(a), (d)(1)(i))

This change has significant impacts on NHTSA's interpretation of the minimum qualification criteria and their application to State laws. A number of commenters to the MAP–21 IFR and the NPRM requested clarification on the application of the GDL requirements to novice drivers age 18 and older. The agency need not address these comments because the FAST Act amendment lowered the evaluation age to 18, and therefore the requirements of the FAST Act do not extend to the State's treatment of novice drivers once they have reached that age. For example, under this IFR, the automatic issuance of an unrestricted driver's license upon turning 18 years of age (regardless of the length of time an intermediate license was held) will no longer prevent a State from qualifying for an incentive grant because the minimum qualification criteria must apply only up to, but not including, 18 years of age.

This IFR uses the commonly accepted term ''unrestricted driver's license,'' as used in the FAST Act instead of ''full driver's license,'' which was used in the MAP–21 IFR. (§ 1300.26(b)) In the MAP–21 IFR, NHTSA used the term ''full driver's license'' to avoid confusion with driver licenses containing such restrictions as a requirement to wear corrective lenses. However, the FAST Act continues to use ''unrestricted driver's license,'' and NHTSA believes that phrase is well-understood. This IFR defines ''unrestricted driver's license'' to mean ''full, non-provisional driver's licensure to operate a motor vehicle on public roadways.'' An ''unrestricted driver's license'' for purposes of this section may include narrow restrictions such as requiring use of corrective lenses or assistive devices. However, it does not include learner's permits, intermediate licenses, or other similar restricted licenses.

The following sections describe the minimum qualification criteria for the learner's permit stage and the intermediate stage that all novice drivers younger than 18 years of age must complete prior to receiving an unrestricted driver's license in order for the State to qualify for an incentive grant. The agency does not have statutory authority in 23 U.S.C. 405(g) to allow States to meet only a few of the minimum qualification criteria dictated by the FAST Act or to phase in the program over several years, as recommended by some commenters. In addition, because the FAST Act sets minimum qualification criteria, NHTSA cannot award grants while allowing States complete flexibility to set ''their own restrictions based on their unique conditions and problems,'' as one commenter suggested.

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

The FAST Act requires all 2-stage licensing processes to begin with a learner's permit stage. This IFR requires a State driver's licensing statute to include a learner's permit stage that applies to any driver who is younger than 18 years of age prior to being issued by the State any other permit, license, or endorsement to operate a motor vehicle on public roadways. However, recognizing that some drivers younger than 18 years of age may change residence across State lines, a learner's permit stage is not required for any driver who has already received an intermediate license or unrestricted driver's license from any State, including a State that does not meet the minimum qualification criteria for an incentive grant. Drivers younger than 18 years of age who possess only a learner's permit from another State must be integrated into the State's learner's permit stage.

The FAST Act requires applicants to successfully pass a vision and knowledge assessment prior to receiving a learner's permit. A ''knowledge assessment'' (commonly called a ''written test'') is generally written or

computerized, as opposed to a behind-the-wheel assessment. The assessment must cover issues related to the driving task (including, but not limited to, the rules of the road, signs, and signals), rather than solely vehicle maintenance.

Under the FAST Act and the IFR, the learner's permit stage must be at least six months in duration, and it must remain in effect until the driver reaches 16 years of age and enters the intermediate stage or reaches 18 years of age. These requirements are independent and must each be satisfied. For example, a learner's permit stage that automatically ends with the issuance of an intermediate license at age 17 would not comply with the minimum requirements because, in some cases, it may not be in effect for a period of at least 6 months. However, a learner's permit stage that automatically ends at age 18 would not be a bar to compliance because, as discussed above, a State's GDL program is not required to cover drivers who have reached that age. A driver who successfully completes the learner's permit stage and is younger than 18 must enter the intermediate stage; he or she may not be issued an unrestricted driver's license or any other permit, license, or endorsement.

The key feature of a learner's permit stage is the requirement that the learner's permit holder be accompanied and supervised at all times while operating a motor vehicle. The FAST Act and this IFR require that the supervising individual be a licensed driver who is at least 21 years of age or a State-certified driving instructor. The IFR defines ''licensed driver'' to mean ''an individual who possess a valid unrestricted driver's license.'' (§ 1300.26(b)). An individual who possesses only a learner's permit or intermediate license, or whose license is expired, suspended, revoked, or otherwise invalid for any reason, may not supervise a learner's permit holder. The FAST Act does not allow for any exceptions to the requirement that a learner's permit holder be accompanied and supervised ''*at all times* while the driver is operating a motor vehicle.'' (23 U.S.C. 405(g)(2)(B)(i)(IV) (emphasis added)) A State that allows a learner's permit holder to drive a motor vehicle without being properly accompanied or supervised for any reason, including in an emergency, would not qualify for an incentive grant.

With regard to driver's education (or a similar training course) and behind-the-wheel training, both of which were required under MAP–21, the FAST Act provides significantly more flexibility. Some commenters to the MAP–21 IFR noted that driver's education was difficult to implement in rural areas, that evidence on the effectiveness of driver's education courses is mixed, and that States facing budgetary challenges may face an insurmountable burden in certifying driver's education courses and requiring all learner's permit holders to attend them. Under the FAST Act, a learner's permit holder must *either* complete a State-certified driver's education or training course [14] *or* receive at least 50 hours of behind-the-wheel training, with at least 10 of those hours at night, with a licensed driver. This IFR includes this requirement, but makes clear that the licensed driver for behind-the-wheel training must be at least 21 years of age or a State-certified driving instructor, in order for it to align with the general accompaniment and supervision requirement explained above. This IFR clarifies that the 10 hours of nighttime behind-the-wheel training are included in the 50 hours of total behind-the-wheel training, not an additional requirement. NHTSA declines to define ''night'' for purposes of this requirement or to dictate how a State may verify that the training has occurred. At this time, the agency believes those determinations are best left to the State.

To qualify, a State must also make it a primary offense for a learner's permit holder to use a personal wireless communications device while driving. The FAST Act made a few changes to this distracted driving provision of the GDL program (''GDL prohibition'') to bring it into closer alignment with the criteria to qualify for a Distracted Driving Grant (under 23 CFR § 1300.24). First, the GDL prohibition bans the use of any ''personal wireless communications device,'' which has a common definition in both programs. Second, the GDL prohibition uses the Distracted Driving Grant definition of ''driving.'' Finally, the same exceptions permitted under the Distracted Driving Grant are permitted under this GDL prohibition. To bring these further into alignment, NHTSA has incorporated into the GDL prohibition the requirement under the Distracted Driving Grant that the State's statute not include an exemption that specifically allows a driver to text through a personal wireless communication device while stopped in traffic. This provision goes to the heart of how the agency interprets ''driving'' as it applies to State laws, and will ensure consistency between the programs. As under the MAP–21 IFR and the Distracted Driving Grant, violation of the GDL prohibition must be a primary offense. However, NHTSA is not incorporating the minimum fine requirement of the Distracted Driving Grant into the GDL prohibition. It is not expressly required under the FAST Act to qualify for a State GDL incentive grant, and the automatic extension requirement (discussed next) already provides for an appropriate penalty under a GDL program.

Finally, under this IFR, the learner's permit stage must require that, in addition to any other penalties imposed by State statute, its duration be extended if the learner's permit holder is convicted of a driving-related offense or misrepresentation of a driver's true age during at least the first six months of that stage. Under the FAST Act, NHTSA has discretion to define any ''driving-related offense'' for which this penalty must apply. (23 U.S.C. 405(g)(2)(B)(iii)) NHTSA has defined ''driving-related offense'' broadly to include ''any offense under State or local law relating to the use or operation of a motor vehicle.'' Further, the IFR provides examples of such offenses, including those from the FAST Act (driving while intoxicated, reckless driving, driving without wearing a seat belt, and speeding), other priority safety programs (child restraint violation and prohibited use of a personal wireless communications device), any violation of a GDL program, and general ''moving violations.'' NHTSA believes that an extension of the learner's permit period is an effective tool for ensuring that novice drivers clearly demonstrate responsibility before advancing to a licensure stage requiring less supervision, and therefore it should apply to any violation of the State's driving laws. However, the IFR makes clear that ''driving-related offense'' does not include offenses related to motor vehicle registration, insurance, parking, or the presence or functionality of motor vehicle equipment (such as headlights or taillights that require replacement). As motor vehicles are often owned by the parents of novice drivers, NHTSA does not believe that offenses related to the vehicles themselves (registration, insurance, or functioning of equipment) should apply to the novice driver. Parking violations are also excluded from the definition because the violation generally applies to the owner of the vehicle, and such violations do not generally implicate safety. We note

[14] NHTSA encourages States to consider establishing driver training curriculum standards based on the national standards recommended in the Driver Education Working Group. (National Highway Traffic Safety Administration (October 2009) *Novice Teen Driver Education and Training Administrative Standards.*)

that offenses such as failure to turn on headlights during nighttime hours are generally moving violations in States and are entirely within the control of a novice driver, in which case they must result in the extension of the learner's permit stage upon conviction.

The FAST Act also changed the automatic extension requirement in the MAP–21 IFR by applying this penalty only during the first six months of the stage, not for its entirety. A State that requires the extension of a learner's permit stage for a conviction that occurs after the first six months would not be disqualified from a grant, but it is no longer required. At this time, NHTSA is not requiring that the learner's permit stage extension be for a particular length of time.

3. Intermediate Stage (23 CFR 1300.26(e))

The FAST Act requires all 2-stage licensing processes to continue with an intermediate stage after the learner's permit stage but prior to receipt of an unrestricted license. As discussed above, the intermediate stage must apply to any novice driver who completes the learner's permit stage and is less than 18 years of age. (23 CFR §§ 1300.26(a), (d)(3), (e)(1)(i)) If a driver completes the learner's permit stage after turning 18 years of age, he or she is not required to participate in an intermediate stage and may receive an unrestricted license.

Under the IFR, the intermediate stage must commence after the applicant successfully completes the learner's permit stage, but prior to being issued by the State another permit, license, or endorsement (other than the intermediate license) to operate a motor vehicle on public roadways. This structure allows for a gap between the learner's permit stage and the intermediate stage, in the event the former expires prior to the novice driver being issued the latter. However, the novice driver may not be granted additional driving privileges beyond the intermediate stage until completion of that stage. In addition, the novice driver may not be issued an intermediate stage license until after he or she has passed a behind-the-wheel driving skills assessment (commonly known as a ''road test'').

The intermediate stage must be in effect for a period of at least 6 months, and it must remain in effect until the intermediate license holder reaches at least 17 years of age. Thus, a State will not qualify for an incentive grant if it issues additional permits, licenses (including an unrestricted driver's license), or endorsements to an intermediate stage driver who has not reached at least 17 years of age and completed the requirements of that stage. As described above, a State may now qualify for an incentive grant if the intermediate stage expires automatically upon reaching 18 years of age, because drivers are no longer required to complete a 2-stage driving process once they have reached that age.

One of the two primary features of an intermediate stage in a GDL program is nighttime driving restrictions. Under the IFR, for the first six months of the intermediate stage, the driver must be accompanied and supervised by a licensed driver who is at least 21 years of age or a State-certified driving instructor while operating a motor vehicle between the hours of 10:00 p.m. and 5:00 a.m. The FAST Act changed this requirement as it existed under MAP–21 to apply only to the first six months of the intermediate stage, rather than to the entire stage. The FAST Act adopted the MAP–21 nighttime hours of 10:00 p.m. through 5:00 a.m., but added additional exceptions for ''transportation to work, school, religious activities, or emergencies.'' NHTSA believes that ''to'' was not intended to limit such exceptions to driving only toward these destinations and not to returning from these destinations. The IFR makes clear that the exceptions may apply to driving ''for the purposes of work, school, religious activities, or emergencies.'' This broadening of the nighttime driving exceptions should address the comments received in response to the MAP–21 IFR. Consistent with the purpose of the statute, the IFR allows accompaniment by a State-certified driving instructor, in addition to someone at least 21 years of age, to better align the accompaniment and supervision requirement with the learner's permit stage, as well as to allow for formal training during nighttime hours.

The second primary feature of an intermediate stage in a GDL program is the passenger restriction. The IFR requires that, for the entirety of the learner's permit stage, an intermediate license holder be prohibited from operating a motor vehicle with more than one nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age or is a State-certified driving instructor is in the motor vehicle. This requirement is essentially unchanged from the MAP–21 IFR, though NHTSA has allowed a State-certified driving instructor to accompany a driver with more than one nonfamilial passenger younger than 21 years of age in order to allow for group behind-the-wheel training and ensure consistency with the learner's permit phase. We emphasize that the FAST Act does not include a 6-month limitation on this restriction; therefore, it must apply for the entirety of the intermediate stage.

Finally, the intermediate stage must include a prohibition on the use of a personal wireless communications device while driving and a requirement that the stage be extended if the intermediate license holder is convicted of a driving related offense or misrepresentation of a driver's true age during at least the first 6 months of the stage. The language of these restrictions is identical in the FAST Act for both the learner's permit and intermediate stages, and the IFR applies these restrictions to both stages identically.

4. Additional Changes From MAP–21 IFR

The MAP–21 IFR included a requirement that the State's learner's permit, intermediate license, and full driver's license be distinguishable from each other. One commenter did not support this license distinguishability criterion, stating it was not an inherent aspect of GDL law or directly related to improving the safety of novice drivers. The FAST Act repealed the statutory provision that gave NHTSA authority to prescribe additional requirements for State GDL programs to qualify for an incentive grant. License distinguishability was not included as a requirement in the FAST Act. For this reason, NHTSA removes this requirement to qualify for a GDL grant.

5. Exceptions to a State's GDL Program (23 CFR 1300.26(f))

MAP–21 created limited exceptions for States that enacted a law prior to January 1, 2011, establishing either of the following two classes of permit or license: a permit or license that allows drivers younger than 18 years of age to operate a motor vehicle in connection with work performed on, or the operation of, a farm owned by family members who are directly related; or a permit or license that is issued because demonstrable hardship would result from its denial to the licensee or applicant. For the second class of permit or license, the MAP–21 IFR clarified that a demonstration of unique, individualized hardship was required. Further, the MAP–21 IFR made clear that although novice drivers may possess one of these classes of permits or licenses, States were not permitted to provide them any other permit, license or endorsement until they completed the GDL process. The FAST Act did not

amend the exceptions that are permitted in State GDL programs. As a result, they are maintained in this IFR.

6. Grant Awards and Use of Grant Funds (23 CFR 1300.26(g), (h))

Under MAP–21, NHTSA was required to award grants to States that met the qualification criteria on the basis of the apportionment formula under Section 402 for that fiscal year. The FAST Act did not amend this provision, so it continues to be used in this IFR. (23 CFR 1300.26(g)) This grant award formula for the State GDL incentive grant program differs from the formula for the other Section 405 programs, where distributions are made in proportion to the State's apportionment under Section 402 for fiscal year 2009.

In addition to listing all the qualifying uses, the agency has reorganized this section under the IFR to list special rules that cover any other statutory requirement conditioning how grant funds are spent. As a general rule, grant funds must be used for certain expenses connected with the State's GDL law or to carry out a teen traffic safety program under 23 U.S.C. 402(m).

Notwithstanding these uses, a State may use no more than 75 percent of the grant funds for any eligible project under Section 402. In addition, the FAST Act creates a special rule for low fatality States that allows them to use up to 100 percent of the grant funds awarded under this section for any eligible project under Section 402. Low fatality States are defined in the FAST Act as those ''in the lowest 25 percent of all States for the number of drivers under age 18 involved in fatal crashes in the State per the total number of drivers under age 18 in the State based on the most recent data that conforms with criteria established by the Secretary.'' For fatality information, the agency intends to use the most recently available final FARS data. For number of drivers, the agency intends to use Table DL–22 from the most recently available FHWA Highway Statistics publication issued by its Office of Highway Policy Information.[15]

[15] In collecting data for Table DL–22, FHWA requests that States include the total number of drivers with intermediate or unrestricted driver's licenses, but exclude learner's permits. NHTSA will therefore exclude learner's permit holders involved in fatal crashes from its FARS data for purposes of this calculation to ensure consistency and discourage States from shortening their learner's permit stages to improve their driver involvement rates in fatal crashes. In addition, because few States report data for drivers younger than 16 years of age, NHTSA's calculation of driver involved rates in fatal crashes will only include 16- and 17-year-old drivers, and exclude drivers younger than 16 years of age.

I. Nonmotorized Safety Grants (23 CFR 1300.27)

The FAST Act created a new Nonmotorized Safety Grant program, authorizing grants to enhance safety for bicyclists and pedestrians. The purpose of the new grant program is to support State efforts to decrease pedestrian and bicyclist fatalities and injuries that result from crashes involving a motor vehicle.

For assistance in developing nonmotorized safety programs, NHTSA encourages States to look to NHTSA's Uniform Guidelines for State Highway Safety Programs No. 14—Pedestrian and Bicycle Safety.[16]

1. Eligibility Determination (23 CFR 1300.27(b))

As directed in the FAST Act, States are eligible for the Nonmotorized Safety Grant if the annual combined pedestrian and bicyclist fatalities in the State exceed 15 percent of the total annual crash fatalities in the State using the most recently available final data from NHTSA's FARS. Recently, FHWA established a nonmotorized performance measure for State departments of transportation to use to carry out the HSIP and to assess the number of serious injuries and fatalities of nonmotorized users. In creating this performance measure, FHWA includes other nonmotorized users besides pedestrians and bicyclists in its calculation of the ''number of non-motorized fatalities.'' However for the Nonmotorized Safety Grant program, the FAST Act specifies that eligible States shall receive a grant for ''the purpose of decreasing pedestrian and bicycle fatalities and injuries that result from crashes involving a motor vehicle,'' and does not mention other types of nonmotorized users. Using FARS data, NHTSA will calculate the percentage of each State's annual combined pedestrian and bicyclist fatalities in relation to the State's annual total crash fatalities, using Statistical Analysis System (SAS) software. NHTSA will not round or truncate this calculation. All States that exceed 15 percent will be eligible for a grant.

In January each year prior to the application due date, the agency will inform each State that is eligible for a grant.

[16] *See http://www.nhtsa.gov/nhtsa/whatsup/tea21/tea21programs/pages/PedBikeSafety.htm.* States may also look to NHTSA's training courses on pedestrian safety training for law enforcement and enhancing bicycle safety. *See http://www.nhtsa.gov/Driving+Safety/Pedestrians/Pedestrian+Safety+Training+for+Law+Enforcement+(CD–ROM)* and *http://www.nhtsa.gov/Driving+Safety/Bicycles/Enhancing+Bicycle+Safety:+Law+Enforcement's+Role.*

2. Qualification Criteria (23 CFR 1300.27(c))

To qualify for a grant under this section, an eligible State must provide assurances that the State will use grant funds awarded under 23 U.S.C. 405(h) only for authorized uses.

3. Use of Grant Funds (23 CFR 1300.27(d))

The FAST Act specifies with particularity how States may use Nonmotorized Safety Grant funds. The IFR adopts the FAST Act language without change.

J. Racial Profiling Data Collection Grants (23 CFR 1300.28)

Section 1906 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA–LU) established an incentive grant program to prohibit racial profiling. Section 4011 of the FAST Act revised several aspects of the Section 1906 Program.

1. Purpose (23 CFR 1300.28(a))

The purpose of the SAFETEA–LU grant program was to encourage States to enact and enforce laws that prohibit the use of racial profiling in traffic law enforcement and to maintain and allow public inspection of statistical information regarding the race and ethnicity of the driver and any passengers for each motor vehicle stop in the State. The purpose of the new Section 1906 grant program is 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.

2. Qualification Criteria (23 CFR 1300.28(b))

Under the SAFETEA–LU Section 1906 Program, States could qualify for a grant in one of two ways: (a) By enacting and enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways *and* maintaining and allowing public inspection of statistical information on the race and ethnicity of the driver and any passengers for each such motor vehicle stop made by a law enforcement officer on a Federal-aid highway (a ''Law State''); or (b) by providing satisfactory assurances that the State is undertaking activities to prohibit racial profiling and to maintain and provide public access to data on the race and ethnicity of the driver and passengers

for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway (an ''Assurances State''). A State could not receive a grant for more than two fiscal years by qualifying for the grant as an Assurances State.

Section 4011 of the FAST Act revised several aspects of the Section 1906 grant program. States now may qualify for a 1906 grant by: (1) Maintaining and allowing 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 a Federal-aid highway; or (2) undertaking activities during the fiscal year of the grant to do so. Under the new 1906 Program, the clear emphasis is to encourage States to maintain and provide public access to statistical information on the race and ethnicity of drivers stopped by law enforcement officers on Federal-aid highways. This requirement extends to all law enforcement officers in a State, including local law enforcement. Use of the term ''Federal-aid highway'' is governed by Chapter 1 of Title 23, which defines it as a highway eligible for assistance under Chapter 1 other than a highway classified as a local road or rural minor collector. Consequently, the program's data collection requirement extends to all public roads except local and minor rural roads.

To qualify under the first criterion, the State must submit official documents (*i.e.,* a law, regulation, binding policy directive, letter from the Governor or court order) demonstrating that the State maintains and allows public inspection of statistical information on the race and ethnicity of drivers stopped by law enforcement officers on Federal-aid highways. To qualify under the second criterion, the State must provide assurances that the State will undertake activities to do so and provide a list of one or more projects in the HSP to support the assurances.

3. Limitations (23 CFR 1300.28(c))

The FAST Act places two limitations on grants. First, a State may not qualify for a grant under this section by providing assurances for more than two fiscal years. This IFR adopts this requirement.

The FAST Act also limits the total amount of grant funds awarded to a State each fiscal year. A State may not receive more than 5 percent of the grant funds made available under this section. By statute, NHTSA may reallocate funds not awarded under this section to carry out any of other activities authorized under 23 U.S.C. 403. (Activities authorized under 23 U.S.C. 403 are beyond the scope of this rule.)

4. Use of Grant Funds (23 CFR 1300.28(d))

Consistent with its emphasis on data collection, the new 1906 Program now provides that a State may use grant funds only for the costs of (1) collecting and maintaining data on traffic stops; and (2) evaluating the results of the data.

V. Administration of Highway Safety Grants

Today's action makes nonsubstantive changes to some sections and amends other sections to clarify existing requirements, provide for improved accountability of Federal funds and update requirements based on 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.

A. Nonsubstantive Changes

In subparts D and E, the agency makes nonsubstantive changes, such as updating cross references, and terms, and adding references to Section 1906. Specifically, the agency makes nonsubstantive and clarifying changes to the following provisions in subparts D and E: §§ 1300.30 General, 1300.31 Equipment, 1300.36 Appeals of Written Decisions by a Regional Administrator, and 1300.42 Post-Grant Adjustments, 1300.43 Continuing Requirements.

B. Governmentwide Uniform Grant Requirements

A number of other requirements apply to the Section 402, 405 and 1906 programs, including such government-wide provisions as the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) and DOT's implementing regulations of those Uniform Administrative Requirements (2 CFR part 1201). These provisions are independent of today's notice, and continue to apply in accordance with their terms. Throughout this IFR, citations to 49 CFR parts 18 and 19 and to OMB Circulars have been updated to refer to OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as well as DOT's implementing regulations (2 CFR parts 200 and 1201). In addition, NHTSA has added citations to various provisions of OMB's Uniform Administrative Requirements throughout this IFR in order to provide additional notice to States about certain provisions, including risk assessment and consequences of non-compliance with government-wide or NHTSA grant requirements. Finally, NHTSA has deleted the provision on program income (§ 1300.34), and will rely the Uniform Administrative Requirements to address program income.

C. Updated Administrative Procedures of Note

The agency is responsible for overseeing and monitoring implementation of the grant programs to help ensure that recipients are meeting program and accountability requirements. Oversight procedures for monitoring the recipients' use of awarded funds can help the agency determine whether recipients are operating efficiently and effectively. Effective oversight procedures based on internal control standards for monitoring the recipients' use of awarded funds are key to ensuring that program funds are being spent in a manner consistent with statute and regulation. In order to improve oversight of grantee activities and management of federal funds, this IFR updates the procedures for administering the highway safety grant programs.

1. Amendments to the Highway Safety Plans (23 CFR 1300.32)

As noted in Section II.A. above, NHTSA anticipates implementing the Grants Management Solutions Suite (GMSS) beginning with fiscal year 2018 grants. GMSS satisfies the FAST Act requirement that NHTSA allow States to submit HSPs electronically. States will submit their HSPs electronically in GMSS to apply for grants. In addition, States will amend their HSPs and submit vouchers in GMSS. The agency expects GMSS to reduce the administrative burden on States. This IFR continues the existing requirement for approval of changes in the HSP by Regional Administrators. Today's action makes conforming changes to § 1300.32, including deleting the reference to the HS Form 217, which will no longer be required.

2. Vouchers and Project Agreement (23 CFR 1300.33)

While grantees or recipients have primary responsibility to administer, manage, and account for the use of grant funds, the Federal grant-awarding agency retains responsibility for oversight in accordance with applicable laws and regulations. Changes to the regulation are necessary to reflect the complexity of current grant programs

and to ensure effective oversight. Today's action requires additional documentation from States when submitting vouchers so that the agency has information linking vouchers to expenditures prior to approving reimbursements and to assist subsequent audits and reviews.

Consistent with the agency's expected implementation of GMSS, today's action amends § 1300.33. Most paragraphs in this section remain unchanged except for nonsubstantive updates to cross-references and terms. This IFR amends the content of the vouchers to conform with the implementation of GMSS and the revised HSP content requirements. As is currently required, States will continue to identify the amount of Federal funds for reimbursement, amount of Federal funds allocated to local benefit, and matching rate. In order to better maintain oversight of Federal grant funds, this IFR requires States to identify project numbers, amount of indirect cost, amount of planning and administration costs and program funding code. To ease the burden on States, the agency is working to program GMSS to populate a number of fields, such as project number and program funding code, from the HSP submission so that States will not have to upload duplicative entries into GMSS.

In response to the MAP–21 IFR, one commenter stated that a list of projects and project numbers was too burdensome because it would require, among other things, double entries. NHTSA is responsible for oversight in accordance with applicable laws and regulations. Without such information, the agency is unable to track whether grant funds are used in accordance with Federal law, including the period of availability for such funds. As stated above, NHTSA expects to implement GMSS to accept the submission of HSPs electronically so that many of the fields will automatically populate, and thus reduce the burden on States.

With these changes, the agency will be better able to track the State's expenditure of grant funds.

3. Annual Report (23 CFR 1300.35)

Today's action retains much of the existing requirements for the State's annual report and makes two targeted additions to require a description of the State's evidence-based enforcement program activities and an explanation of reasons for projects that were not implemented. The statute requires States to have sustained enforcement of traffic safety laws (*i.e.,* impaired driving, occupant protection and driving in excess of posted speed limits) as a condition of a Section 402 grant. (23 U.S.C. 402(b)(1)) The HSP that is approved by NHTSA contains information about the projects that the State intends to implement to meet performance targets. In order to improve oversight of grantee activities and management of federal funds, the IFR updates the annual report to require a description of the State's enforcement activities and an explanation of reasons for projects that were approved by NHTSA but not implemented. To ease the State's burden, NHTSA expects that States will be able to submit this information through GMSS beginning with fiscal year 2018.

4. Disposition of Unexpended Balances (23 CFR 1300.41)

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 and 405 grant funds are authorized for apportionment or allocation each fiscal year. Because these funds are made available each fiscal year, it is expected that States will strive to use these grant funds to carry out highway safety programs during the fiscal year of the grant. States should, to the fullest extent possible, expend these funds during the fiscal year to meet the intent of the Congress in funding an annual program.

Today's action retains many provisions in the MAP–21 IFR, such as the provision on deobligation of funds, but conforms the treatment of carry-forward funds to the revised HSP content requirements in § 1300.11(d). Two commenters to the MAP–21 IFR sought clarification on the treatment of grant funds awarded under previous authorizations. As provided in the MAP–21 IFR, the codified regulations in place at the time of grant award continue to apply.

D. Sanctions

Today's action reorganizes and clarifies 23 CFR 1300.51 in accordance with 23 U.S.C. 402(c). No substantive changes are made to this section.

This IFR adds a new sanction provision (23 CFR 1300.52) related to risk assessment and noncompliance with Federal requirements for grants. The OMB Circular (2 CFR part 200) introduced increased risk assessment procedures for Federal agencies and sub-recipients. This IFR explains that NHTSA will conduct risk assessments and incorporate risk assessment results into existing grant monitoring activities. NHTSA may impose conditions proportional to the degree of risk found.

VI. Special Provisions for Fiscal Year 2017 Grants

A. Fiscal Year 2017 Grant Applications (23 CFR 1300.60)

The FAST Act left a number of the National Priority Safety Program grants unchanged, provided additional flexibility for States to receive grants under others, and established new grants. Today's action streamlines and consolidates grant application requirements for Sections 402, 405 and 1906. For Section 402 grants, States are required to submit HSPs with performance measures and targets, a strategy for programming funds on projects and activities, and data and data analysis supporting the effectiveness of the countermeasures for NHTSA's approval. This IFR revises some of the HSP content requirements to allow States to use the HSP contents to not only meet the Section 402 requirements, but also meet some of the Section 405 grant requirements.

While these changes to the HSP and Section 405 grant requirements will reduce the application burden on States, NHTSA is not making these changes a requirement for fiscal year 2017 grants. States begin drafting their HSP for the next fiscal year months in advance of the July 1 application deadline. It would be difficult for States to meet the revised requirements in the short time between the issuance of this IFR and July 1, 2016.

In order to limit any disruption to the State highway safety program planning process, the amendments to the application requirements in this part are not mandatory until the fiscal year 2018 application cycle for grants without substantive changes in the FAST Act. For those grants (Occupant Protection Grants, State Traffic Safety Information System Improvements Grants, Impaired Driving Countermeasures Grants and Motorcyclist Safety Grants), States may follow the application requirements in the MAP–21 IFR (Part 1200). As discussed in Section I, for additional flexibility, States may elect to follow the new procedures (*i.e.,* the part 1300 requirements) for fiscal year 2017 grant applications for these grants that were not substantively changed by the FAST Act. Specifically, States should submit applications in accordance with the following instructions:

Grant application	Requirement	
HSP contents	§ 1200.11	§ 1300.11
Section 405(b) Occupant Protection Grants	§ 1200.21(d)(1)–(4) and (e); § 1300.21(d)(5) [17] (maintenance of effort).	§ 1300.21(d)(1)–(5)
Section 405(c) State Traffic Safety System Improvements Grants.	§ 1200.22(b)–(e); § 1300.22(c) [17] (maintenance of effort) ..	§ 1300.22(b)–(c)
Section 405(d)(1) Impaired Driving Countermeasures Grants.	§ 1200.23(d)(1), (e), (f); § 1300.23(d)(2) [17] (maintenance of effort).	§ 1300.23(d)–(f)
Section 405(f) Motorcyclist Safety Grants	§ 1200.25(d)–(j)	§ 1300.25(d)–(j)

For Section 405 grants for which the FAST Act provided additional flexibility (Alcohol-Ignition Interlock Law Grants, Distracted Driving Grants and State Graduated Driver Licensing Incentive Grants) and for new grants (24–7 Sobriety Grants, Nonmotorized Grants and Racial Profiling Data Collection Grants), States should submit applications in accordance with this part. Specifically, States must submit applications in accordance with the following instructions:

Grant application	Requirement
Section 405(d)(6) Grants to States with Alcohol-Ignition Interlock	§ 1300.23(g)
Section 405(d)(6) Grants to States with 24–7 Sobriety Program Grants	§ 1300.23(h)
Section 405(e) Distracted Driving (and Special Distracted Driving) Grants	§ 1300.24
Section 405(g) State Graduated Driver Licensing Incentive Grants	§ 1300.26
Section 405(h) Nonmotorized Safety Grants	§ 1300.27
Section 1906 Racial Profiling Data Collection Grants	§ 1300.28

B. Fiscal Year 2017 Grants—General and Administrative Provisions (23 CFR 1300.61)

Today's action makes a number of changes to the general and administrative provisions applicable to grants awarded under 23 U.S.C. Chapter 4 and Section 1906. In order to reduce the burden on States, the agency is delaying the applicability of some of these provisions. Specifically, the provisions that impact the HSP contents and the process for reimbursement of grant expenditures are delayed until fiscal year 2018 grants.

For fiscal year 2017 grants awarded under 23 U.S.C. Chapter 4 and Section 1906, the following provisions from part 1300 are applicable:

- Subpart A—all sections;
- Subpart B: 23 CFR 1300.10 General; 23 CFR 1300.12 Due Date for Submission; (iii) 23 CFR 1300.13 Special Funding Conditions for Section 402 Grants; (iv) 23 CFR 1300.15 Apportionment and Obligation of Federal Funds;
- Subpart C—23 CFR 1300.20 General; 23 CFR 1300.21(a)–(c) and (f); 23 CFR 1300.22(a) and (d); 23 CFR 1300.23(a)–(c), (i) and (j); 23 CFR 1300.1300.24—all paragraphs; 23 CFR 1300.25(a)–(c), (k) and (l); 23 CFR 1300.26—all paragraphs; 23 CFR 1300.27—all paragraphs; 23 CFR 1300.28—all paragraphs;
- Subpart D: 23 CFR 1300.30 General; 23 CFR 1300.31 Equipment; 23 CFR 1300.35 Annual Report; 23 CFR 1300.36 Appeals of Written Decision by Regional Administrator;
- Subpart E—all sections;
- Subpart F—all sections.

For all other general or administrative provisions, the following provisions of 23 CFR part 1200 apply for fiscal year 2017—

- Subpart B—23 CFR 1200.14 Review and Approval Procedures;
- Subpart D: 23 CFR 1200.32 Changes—Approval of the Approving Official (Regional Administrator); 23 CFR 1200.33 Vouchers and Project Agreements.

VII. MAP–21 Comments

This preamble addressed comments from the MAP–21 IFR in applicable sections. Some comments, however, were of general applicability or applied to multiple sections of the IFR. Those comments are addressed in this section.

One commenter suggested that States conduct their own assessments rather than NHTSA-facilitated assessments. There are a number of assessment requirements within MAP–21 and continued under the FAST Act, *e.g.,* two assessments under the Occupant Protection Grant, a traffic record system assessment and an impaired driving assessment. These are statutory requirements. In the MAP–21 IFR, the agency specified that these would be NHTSA-facilitated assessments. Consistent with the MAP–21 IFR, we continue to define an assessment as a NHTSA-facilitated process. The agency's involvement will ensure a comprehensive treatment and uniformity among all States receiving assessments. This approach also is consistent with NHTSA's long-standing involvement in conducting assessments of traffic safety activities and programs.

One commenter sought clarification about whether grant funds may be used to fund an impaired driving task force. While the question was specific to the impaired driving task force, there are other grants where task forces or similar entities are requirements for a Section 405 grant. Generally, under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, costs incurred by advisory councils or committees are unallowable unless authorized by statute, the Federal awarding agency or as an indirect cost where allocable to Federal awards. 2 CFR 200.422. As the agency stated in response to questions about the Cost Principles, the costs of advisory councils (or similar entities) are not allowable if the advisory council or entity is required to qualify for a grant by which it is funded (*e.g.,* the costs of a task force required to qualify for a Section 405 grant may not be reimbursed using Section 405 funds. However, those costs may be allowable using other NHTSA grant funds.

Several commenters had questions about the qualification requirements for MAP–21 grants based on enactment of

[17] The FAST Act maintenance of effort requirements for occupant protection, State traffic information system improvements and impaired driving countermeasures are effective for fiscal year 2017 grants. (23 U.S.C. 405(a)(9)).

laws. Most of these commenters stated that the MAP–21 IFR did not provide sufficient time for State legislatures to amend laws to qualify for grants in fiscal year 2014. Most of the law-based qualification requirements in MAP–21 and the FAST Act are based on statutory requirements. NHTSA encouraged States to review the FAST Act to become familiar with these requirements in advance of publishing the regulation. NHTSA does not have much discretion in these law-based qualification requirements. As a long term authorization, the FAST ACT provides States with more lead time to amend State laws to comply with grant requirements, and it provides additional flexibility to meet grant requirements.

VIII. Notice and Comment, Effective Date and Request for Comments

The Administrative Procedure Act authorizes agencies to dispense with certain procedures for rules when they find ''good cause'' to do so. The FAST Act contains a general provision requiring the agency to award grants through rulemaking and continues the specific provision requiring the agency to award the GDL grants through notice and comment provisions under 5 U.S.C. 553. The agency finds good cause to dispense with the notice and comment requirements and the 30-day delayed effective date requirement.

Under Section 553(b)(B), the requirements of notice and comment do not apply when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to public interest.'' Because the statutory deadline for fiscal year 2017 grant applications is July 1, 2016, the agency finds it impracticable to implement the grant provisions with notice and comment. However, the agency invites public comment on all aspects of this IFR as the agency intends to address comments in a final rule.

Under Section 553(d), the agency may make a rule effective immediately, avoiding the 30-day delayed effective date requirement for good cause. We have determined that it is in the public interest for this final rule to have an immediate effective date. NHTSA is expediting a rulemaking to provide notice to the States of the requirements for the substantively changed grants and the new grants established by the FAST Act. NHTSA is providing the option for States to apply the new requirements immediately to all grants, and this also requires an expedited rule. The fiscal year 2017 grant funds must be awarded to States before the end of the fiscal year 2016, and States need the time to complete their fiscal year 2017 grant applications before the July 1, 2016 deadline. Early publication of the rule setting forth the requirements for State applications for multiple grants that have separate qualification requirements is therefore imperative.

For these reasons, NHTSA is issuing this rulemaking as an interim final rule that will be effective immediately. As an interim final rule, this regulation is fully in effect and binding upon its effective date. No further regulatory action by the agency is necessary to make this rule effective. However, in order to benefit from comments that interested parties and the public may have, the agency is requesting that comments be submitted to the docket for this notice.

Comments received in response to this notice, as well as continued interaction with interested parties, will be considered in making future changes to these programs. Following the close of the comment period, the agency will publish a notice responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

For ease of reference, this IFR sets forth in full part 1300.

IX. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

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 establishes revised 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 interim final rule (IFR) 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 and non-controversial. 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.

This IFR is a rulemaking that will establish revised uniform procedures implementing State highway safety grant programs, as a result of enactment of the Fixing America's Surface Transportation Act (FAST Act). Under these grant programs, 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 IFR 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 IFR are considered to be a collection of information subject to requirements of the PRA. Because the agency cannot reasonably comply with the submission time periods under the PRA and provide States sufficient time to apply for the grants to be awarded in fiscal year 2017, the agency is seeking emergency clearance for the information collection related to the fiscal year 2017 grant application process. The agency is proceeding under the regular PRA clearance process for the collection of information related to grants beginning with fiscal year 2018 grants. Accordingly, in compliance with the PRA, we announce that NHTSA is seeking comment on a new information collection for grant programs beginning with fiscal year 2018 grants.

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: State Highway Safety Grant Programs.

Type of Request: New collection.

OMB Control Number: Not assigned.

Form Number: N/A (Highway Safety Plan and Annual Plan).

Requested Expiration Date of Approval: Three years from the approval date.

Summary of Collection of Information: On December 4, 2015, the President signed into law the Fixing America's Surface Transportation Act (FAST Act), Public Law 114–94, which reauthorized highway safety grant programs administered by NHTSA. Specifically, these grant programs include the Highway Safety Program grants (23 U.S.C. 402 or Section 402), the National Priority Safety Program grants (23 U.S.C. 405 or Section 405) and a separate grant on racial profiling restored (with some changes) from a previous authorization (Sec. 1906, Pub. L. 109–59, as amended by Sec. 4011, Pub. L. 114–94, or Section 1906). The FAST Act requires NHTSA to award these grants to States pursuant to a rulemaking.

Unlike the prior authorization under MAP–21, the FAST Act does not significantly change the structure of these grant programs. The FAST Act instead made targeted amendments, adding more flexibility for States to qualify for some of the grants. For Section 402, the FAST Act made limited administrative changes and no substantive changes to the contents of the required Highway Safety Plan (HSP). For Section 405, the FAST Act made no substantive changes to four programs covering occupant protection grants, state traffic safety information systems improvements grants, impaired driving countermeasures grants and motorcyclist safety grants; made limited changes that added flexibility for States to qualify for three grant programs covering alcohol-ignition interlock law grants, distracted driving grants and state graduated driving licensing incentive grants; and created two new grant programs covering 24-7 sobriety programs grants and nonmotorized safety grants. For Section 1906, the FAST Act made changes that simplified the basis for States to receive a grant.

Consequently, for all of these grants, the agency continues to follow the process directed in MAP–21 establishing a consolidated application that uses the HSP States submit under the Section 402 program as a single application. The information required to be submitted for these grants includes the HSP consisting of information on the highway safety planning process, performance plan, highway safety countermeasure strategies and projects, performance report, certifications and assurances, and application materials that covers Section 405 grants and the reauthorized Section 1906 grant. In addition, States must submit an annual report evaluating the State's progress in achieving performance targets.

Under this IFR, the agency has taken significant steps to streamline the application process. This includes allowing States to more easily cross reference sections of their HSP under Section 402 where similar information is required to be submitted to qualify for a Section 405 grant and the introduction of a revised electronic submission process. As discussed above, in accordance with FAST Act requirements that require the agency to make greater use of an electronic application process, the agency intends to start using the Grants Management Solutions Suite (GMSS) for fiscal year 2018 grants. GMSS replaces the current grants tracking system and represents an enhanced and improved electronic system that will allow States to apply for and receive grants and also manage grants and invoicing electronically. The agency's approach will contribute overall to reducing the paperwork requirements associated with responding to the statutory requirements.

Description of the Need for the Information and Use of the Information: As noted above, the statute provides that the Highway Safety Plan is the application for the grants identified each fiscal year. This information is necessary to determine whether a State satisfies the criteria for grant awards. The annual report tracks progress in achieving the aims of the grant program. The information is necessary to verify performance under the grants and to provide a basis for improvement.

Description of the Likely Respondents: 57 (50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the U.S. Virgin Islands, and the Bureau of Indian Affairs on behalf of the Indian Country).

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information:

The Highway Safety Plan (HSP) is a planning document for a State's entire traffic safety program and outlines the countermeasure strategies, program activities, and funding for key program areas as identified by State and Federal data and problem identification. By statute, States must submit and NHTSA must approve the HSP as a condition of Section 402 grant funds. States also are required to submit their Sections 405

and 1906 grant applications as part of the HSP. States must submit the HSP each fiscal year in order to qualify for grant funds. In addition, States provide an annual report evaluating their progress under the programs.

The estimated burden hours for the collection of information are based on all eligible respondents for each of the grants:

- *Section 402 grants:* 57 (fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior);
- *Section 405 Grants (except Motorcyclist Safety Grants) and Section 1906 Grant:* 56 (fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and
- *Section 405, Motorcyclist Safety Grants:* 52 (fifty States, the District of Columbia, and Puerto Rico).

We estimate that it will take each respondent approximately 240 hours to collect, review and submit the required information to NHTSA for the Section 402 program. We further estimate that it will take each respondent approximately 180 hours to collect, review and submit the required information to NHTSA for the Section 405 program. Based on the above information, the estimated annual burden hours for all respondents are 23,760 hours.

Assuming the average salary of individuals responsible for submitting the information is $50.00 per hour, the estimated cost for each respondent is $21,000; the estimated total cost for all respondents is $1,197,000. These estimates are based on every eligible respondent submitting the required information for every available grant every year. However, all States do not apply for and receive a grant each year under each of these programs. Similarly, under Section 405 grants, some requirements allow States to submit a single application covering multiple years allowing States to simply recertify in subsequent years. Considering the agency's steps to streamline the current submission process under this IFR and the greater use of an electronic submission process beginning in fiscal year 2018, these estimates represent the highest possible burden hours and amounts possible for States submitting the required information.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
- Whether the Agency's estimate for the burden of the information collection is accurate.
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Please submit any comments, identified by the docket number in the heading of this document, by any of the methods described in the **ADDRESSES** section of this document. Comments are due by October 31, 2016.

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 IFR 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 IFR would not have a significant impact on the quality of the human environment.

H. Executive Order 13211

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.

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

The agency has analyzed this IFR 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.

L. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this IFR.

M. 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 Regulations. 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.

N. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000

(65 FR19477) or you may visit *http://dms.dot.gov.*

X. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the docket at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See *www.regulations.gov* for more information.

List of Subjects in 23 CFR Part 1300

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

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

PART 1300—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY GRANT PROGRAMS

Subpart A—General

Subpart B—Highway Safety Plan

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

Subpart D—Administration of the Highway Safety Grants

Subpart E—Annual Reconciliation

Subpart F—Non-Compliance

Subpart G—Special Provisions for Fiscal Year 2017 Highway Safety Grants

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 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. Examples 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 public yearly 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 by 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, which describes the State's performance targets, the strategies and projects the State plans to implement, and 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 sub-recipients 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 specific undertaking or activity proposed or implemented with grant funds under 23 U.S.C. Chapter 4 and Section 1906 and that addresses countermeasure strategies identified in the HSP.

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 number means a unique identifier assigned to each project agreement in the Highway Safety Plan.

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 strategic highway safety plan 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 and projects to meet performance targets. Each fiscal year, the State's HSP shall consist 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 and developing countermeasure strategies.

(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, 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.

(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 Program 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) Documentation of current safety levels (baseline) calculated based on a 5-year rolling average for common performance measures in the HSP and HSIP, as provided in paragraph (c)(2)(iii) of this section;

(B) Quantifiable performance targets; and

(C) 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, projects 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 proposed or approved projects 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 projects.

(2) Description of each project 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 projects 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 project, identification of the project name and description, sub-recipient, funding sources, funding amounts, amount for match, indirect cost, local benefit and maintenance of effort (as applicable), project number, and program funding code.

(3) Data and data analysis or other documentation consulted that support the effectiveness of proposed countermeasure strategies and support the selection of and funding allocation for the proposed projects 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.

(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 projects 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 projects 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:

(i) 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; and

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

(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 projects, including the amount and types of Federal funding requested, the State match, planning and administration costs, local benefit as applicable, appropriate use of fund codes, 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. Projects must meet the eligible use requirements of 23 U.S.C. 402(m)(2).

(f) *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.

(g) *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.

§ 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 Section 405 or racial profiling data collection grants.

§ 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 costs.* (1) Federal participation in P&A activities shall not exceed 50 percent of the total cost of such activities, or the applicable sliding scale rate in accordance with 23 U.S.C. 120. The Federal contribution for P&A activities shall not exceed 13 percent of the total funds the State receives under 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 requirement.* (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 all automated traffic enforcement systems installed in the State, including systems installed in political subdivisions. 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), as updated; and

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

§ 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 any of the Section 405 or Section 1906 grant applications 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 Section 405 and Section 1906 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, reimbursement of State expenses or advance payment of 23 U.S.C. Chapter 4 and Section 1906 funds shall be

contingent upon the State's submission of up-to-date and 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.* (i) For all grants under Section 405 and Section 1906, 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) For all grant applications under Section 405 and Section 1906, 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 include the specific page numbers 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(g), the amount of a grant awarded to a State in a fiscal year under Section 405 and 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) Except for amounts made available for grants under § 1300.28, 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 distributed in proportion to the amount each State received under Section 402 for fiscal year 2009 to ensure, to the maximum extent practicable, that each State receives the maximum funding for which it qualifies.

(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 in properly restrained in motor vehicles.

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

Child restraint means any device (including a child safety seat, booster seat used in conjunction with 3-point belts, or harness, but excluding seat belts) that is designed for use in a motor vehicle to restrain, seat, or position a child who weighs 65 pounds (30 kilograms) or less and that meets the Federal motor vehicle safety standard prescribed by 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 projects 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) Table in the HSP that documents an active network of child passenger safety inspection stations and/or inspection events, including:

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

(B) The total number of inspection stations and/or inspection events that service rural and urban areas and at-risk populations (*e.g.,* low income, minority); and

(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.* Table in the HSP that identifies the number of classes to be held, location of classes, and estimated number of students needed 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), 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 projects 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), at the level of detail required under § 1300.11(d)(5), 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 the State's unrestrained passenger vehicle occupant fatalities occurred.

(4) *High risk population countermeasure programs.* The State shall identify the countermeasure strategies and projects, 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 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 usage 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 indicates who is 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 described in paragraph (b)(2)(ii) of this section the State intends to address in the fiscal year, the projects in the HSP that implement each recommendation, and the performance measures to be used to demonstrate quantifiable and measurable progress; and

(iv) Identifies which recommendations described in 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, measureable 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 or by an alternative method approved by NHTSA.

Alcohol means wine, beer and distilled spirits.

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

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

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

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

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

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

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

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

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

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) Detailed project list 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 a 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 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)–(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)–(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;

(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, emailing, 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 also 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) *Qualification criteria for Special Distracted Driving Grants.* For fiscal years 2017 and 2018, to qualify for a Special Distracted Driving Grant, a State shall submit as part of its HSP the legal citations to the State statute demonstrating compliance with the following requirements, in accordance with part 6 of appendix B:

(1) For fiscal year 2017—

(i) The State has enacted and is enforcing a basic text messaging statute that applies to drivers of all ages;

(ii) The State statute makes a violation of the basic text messaging statute a primary or secondary offense; and

(iii) The State is not eligible for a Comprehensive Distracted Driving Grant under paragraph (c) of this section.

(2) For fiscal year 2018—

(i) The State has enacted and is enforcing a basic text messaging statute that applies to drivers of all ages;

(ii) The State statute makes a violation of the basic text messaging statute a primary offense;

(iii) The State imposes a fine for a violation of the basic text messaging statute;

(iv) The State has enacted and is enforcing a statute that prohibits drivers under the age of 18 from using a personal wireless communications device while driving; and

(v) The State is not eligible for a Comprehensive Distracted Driving Grant under paragraph (c) of this section.

(3) For purposes of this paragraph (e), ''basic text messaging statute'' means a statute that prohibits a driver, for the purpose of written communication, from manually inputting or reading from an electronic device while driving.

(4) *Use of grant funds for Special Distracted Driving Grants*—(i) *Eligible uses.* Except as provided in paragraph (e)(4)(ii) of this section, a State may use grant funds awarded under 23 U.S.C. 405(e)(6) only for activities related to the enforcement of distracted driving laws, including public information and awareness.

(ii) *Special rule.* Notwithstanding paragraph (e)(4)(i) of this section—

(A) In fiscal year 2017, a State may elect to use up to 15 percent of grant funds awarded under 23 U.S.C. 405(e)(6) for any eligible project or activity under Section 402.

(B) In fiscal year 2018, a State may elect to use up to 25 percent of grant funds awarded under 23 U.S.C. 405(e)(6) for any eligible project or activity under Section 402.

(f) *Award.* (1) The amount available for grants under paragraph (c)(1) of this section shall be determined after deduction of the amounts necessary to fund grants under 23 U.S.C. 405(e)(6).

(ii) The amount available for grants under 23 U.S.C. 405(e)(6) shall not exceed 25 percent of the total amount made available to States under 23 U.S.C. 405(e) for fiscal years 2017 and 2018.

§ 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 an 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 that 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 is 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 projects, 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 there is at least one motorcycle crash causing a serious or fatal injury. The State shall select countermeasure strategies and projects 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 showing the total number of motor vehicle crashes involving motorcycles in the State for the most recent calendar year for which final State crash data is available, but data no older than 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 2014 data and 2013 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 is 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 is 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 projects, 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 is 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 2014 data, if available, and may not provide data older than calendar year 2013). Countermeasure strategies and projects shall prioritize the State's impaired motorcycle problem areas to meet the performance targets identified in paragraph (h)(1) of this section.

(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 showing the total number of reported crashes involving alcohol- and drug-impaired motorcycle operators in the State for the most recent calendar year for which final State crash data is available, but data no older than 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 2014 data and 2013 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 is 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 is 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 Web site 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 is 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, 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 the State statute demonstrating compliance with the requirements provided in paragraphs (d) and (e) of this section, in accordance with in 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—

(i) Makes a violation of the prohibition a primary offense; and

(ii) 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 or misrepresentation of a driver's true age during at least 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—

(i) Makes a violation of the prohibition a primary offense; and

(ii) 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 or misrepresentation of a driver's true age during at least the first 6 months of that stage.

(f) *Exceptions.* A State that otherwise meets the minimum requirements set forth in paragraphs (d) and (e) 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 (f)(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) and (e) of this section and is required to begin with the learner's permit stage.

(g) *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.

(h) *Use of grant funds*—(1) *Eligible uses.* Except as provided in paragraphs (h)(2) and (3), 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 (h)(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 (h)(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 is 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 in 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 a list of one or more projects in its HSP to support 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.

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, including project information. Such changes are subject to approval by the Regional Administrator. The Regional Administrator must approve changes in the HSP before reimbursement of vouchers related to such changes.

§ 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 for expenses:

(1) Project numbers for which expenses were incurred and for which reimbursement is being sought;

(2) Amount of Federal funds for reimbursement;

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

(4) Amount of indirect cost;

(5) Amount of Planning and Administration costs;

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

(7) Program funding code.

(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 number to allow the Regional Administrator to match the voucher to the corresponding activity.

(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.

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

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

(3) Vouchers that request reimbursement for projects whose project numbers or amounts claimed do not match the projects or exceed the estimated amount of Federal funds provided under § 1300.11(d) or amended 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.

§ 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;

(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) An explanation of reasons for projects that were not implemented; and

(e) 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 State's 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 a Highway Safety Plan shall be credited to the State's highway safety account for the new fiscal year, and made immediately available for use by the State, provided the following requirements are met:

(1) The State's new Highway Safety Plan has been approved by the Regional Administrator pursuant to § 1300.14 of this part, including any amendments to the HSP pursuant to § 1300.32; and

(2) The State has assigned all available 23 U.S.C. Chapter 4 and Section 1906 funds to specific project agreements, including project numbers.

(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 a Highway Safety Plan does not affect the ability of NHTSA to disallow costs and recover funds on the basis of a later audit or

other review or the State's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

§ 1300.43 Continuing requirements.

Notwithstanding the expiration of a Highway Safety Plan, 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 special conditions of 2 CFR 200.207 and 200.388, 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 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.

Subpart G—Special Provisions for Fiscal Year 2017 Highway Safety Grants

§ 1300.60 Fiscal Year 2017 grant applications.

(a) Except as provided in paragraph (b) of this section, fiscal year 2017 grant applications due July 1, 2016 shall be governed by the following provisions:

(1) For the Highway Safety Plans, 23 CFR 1200.11 (April 1, 2015);

(2) For occupant protection grants under 23 U.S.C. 405(b), 23 CFR 1200.21(d)(1) through (4) and (e) (April 1, 2015) and 23 CFR 1300.21(d)(5) (maintenance of effort);

(3) For State traffic safety information system improvements grants under 23 U.S.C. 405(c), 23 CFR 1200.22(b) through (e) (April 1, 2015) and 23 CFR 1300.22(c) (maintenance of effort);

(4) For impaired griving countermeasures grants under 23 U.S.C. 405(d)(1), 23 CFR 1200.23(d)(1), (e), and (f) (April 1, 2015), and 23 CFR 1300.23(d)(2) (maintenance of effort);

(5) For grants to States with alcohol-ignition interlock laws and 24–7 sobriety programs under 23 U.S.C. 405(d)(6), 23 CFR 1300.23(g) and (h);

(6) For distracted driving grants under 23 U.S.C. 405(e), 23 CFR 1300.24;

(7) For motorcyclist safety grants under 23 U.S.C. 405(f), 23 CFR 1200.25(d)–(j) (April 1, 2015);

(8) For State graduated driver licensing incentive grants under 23 U.S.C. 405(g), 23 CFR 1300.26;

(9) For nonmotorized safety grants under 23 U.S.C. 405(h), 23 CFR 1300.27;

(10) For racial profiling data collection grants under Section 1906, 23 CFR 1300.28.

(b) States may elect to apply under 23 CFR part 1300 for any of the grants under paragraph (a) of this section.

§ 1300.61 Fiscal Year 2017 grants—general and administrative provisions.

(a) Fiscal year 2017 grants awarded under 23 U.S.C. Chapter 4 and Section 1906 are governed by the following general and administrative provisions in part 1300:

(1) Subpart A—all sections;

(2) Subpart B:

(i) 23 CFR 1300.10 General;

(ii) 23 CFR 1300.12 Due date for submission;

(iii) 23 CFR 1300.13 Special funding conditions for Section 402 Grants;

(iv) 23 CFR 1300.15 Apportionment and obligation of Federal funds;

(3) Subpart C:

(i) 23 CFR 1300.20 General;

(ii) 23 CFR 1300.21(a) through (c) and (f) Occupant protection grants—purpose, definitions, elibigibility determination, and use of grant funds;

(iii) 23 CFR 1300.22(a) and (d) State traffic safety information system improvements grants—purpose and use of grant funds;

(iv) 23 CFR 1300.23(a) through (c), (i), and (j) Impaired driving countermeasures grants—purpose, definitions, eligibility determinations, award and use of grant funds;

(v) 23 CFR 1300.1300.24 Distracted driving grants—all paragraphs;

(vi) 23 CFR 1300.25(a) through (c), (k) and (l) Motorcyclist safety grants—purpose, definitions, eligibility, award limitation, use of grant funds;

(vii) 23 CFR 1300.26 State graduated driving licensing incentive grants—all paragraphs;

(viii) 23 CFR 1300.27 Nonmotorized safety grants—all paragraphs;

(ix) 23 CFR 1300.28 Racial profiling data collection grants—all paragraphs.

(4) Subpart D:

(i) 23 CFR 1300.30 General;

(ii) 23 CFR 1300.31 Equipment;

(iii) 23 CFR 1300.35 Annual report;

(iv) 23 CFR 1300.36 Appeals of written decision by Regional Administrator;

(5) Subpart E—all sections;

(6) Subpart F—all sections.

(b) Except as provided in paragraph (c) of this section, fiscal year 2017 grants awarded under 23 U.S.C. Chapter 4 and Section 1906 are also governed by the following general and administrative provisions in part 1200:

(1) Subpart B—23 CFR 1200.14 Review and approval procedures;

(2) Subpart D:

(i) 23 CFR 1200.32 Changes—approval of the approving official (Regional Administrator);

(ii) 23 CFR 1200.33 Vouchers and project agreements.

(c) States may elect to follow all sections of part 1300.

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)

[*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, Public Law 109–59, as amended by Sec. 4011, Public Law 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, sub-recipients 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 any of 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;

• 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 2l 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:

○ The dangers of drug abuse in the workplace.

○ The grantee's policy of maintaining a drug-free workplace.

○ Any available drug counseling, rehabilitation, and employee assistance programs.

○ The penalties that may be imposed upon employees for drug violations occurring in the workplace.

○ Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).

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

○ Abide by the terms of the statement.

○ Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

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—

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

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

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 Certification (States)

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

agrees to comply with the requirements of 2 CFR parts 180 and 1300.

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

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

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

5. The terms *covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded,* as used in this clause, have the meaning set out in the Definitions and coverage sections of 2 CFR part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Instructions for Lower Tier 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 1300.

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

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

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

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

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

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

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

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

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

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

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.

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

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

4. The terms *covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded,* as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR part 180. 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 NHTSA.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ''Instructions for Lower Tier 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 1300.

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

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

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

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

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

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

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 only steel, iron and manufactured products produced in the United States with Federal funds, 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 to and approved 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 on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's Web site at *www.nhtsa.dot.gov.* Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, DC metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221–0045 or visit its Web site at *www.trafficsafety.org.*

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 crashed caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

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 seatbelts 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 CFR 1300.13(d)(3) 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, Public Law 109–59, as amended by Section 4011, Public Law 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 as HSP page or attachment # _____.
- The State will participate in the Click it or Ticket national mobilization in the fiscal year of the grant. The description of the State's planned participation is provided as HSP page or attachment # _____.
- A table that documents the State's active network of child restraint inspection stations is provided as HSP page or attachment # __ ____. Such table includes (1) the total number of inspection stations/events in the State; and (2) the total number of inspection stations and/or inspection events that service rural and urban areas and at-risk populations (*e.g.,* low income, minority). Each inspection station/event is staffed with at least one current nationally Certified Child Passenger Safety Technician.
- A table, as provided in HSP page or attachment # _____, identifies the number of classes to be held, location of classes, and estimated number of students needed 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 ____/__ __/____ and last amended on ____/____/____, is in effect, and will be enforced during the fiscal year of the grant. **Legal citation(s):** _____.

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

Legal citations:

- _____ Requirement for all occupants to be secured in seat belt or age appropriate child restraint;
- _____ Coverage of all passenger motor vehicles ;
- _____ Minimum fine of at least $25;
- _____ Exemptions from restraint requirements.

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

☐ The State's high risk population countermeasure program is provided as HSP page or attachment # _____.

☐ 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: ____/____/____;
- Multi-year strategic plan: HSP page or attachment # ____;
- Name and title of State's designated occupant protection coordinator: _____
- List that contains the names, titles and organizations of the Statewide occupant protection task force membership: HSP page or attachment # _____.

☐ The State's NHTSA-facilitated occupant protection program assessment of all elements of its occupant protection program was conducted on _____/_____/_____ (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 improvements 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*** *blanks for each bullet below.*]

- A list of at least 3 TRCC meeting dates during the 12 months preceding the application due date is provided as HSP page or attachment # _____.
- 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 as HSP page or attachment # _____.
- The State Strategic Plan is provided as follows:
  - Description of specific, quantifiable and measurable improvements: HSP page or attachment # _____;
  - List of all recommendations from most recent assessment: HSP page or attachment # _____;
  - Recommendations to be addressed, including projects and performance measures: HSP page or attachment # _____;
  - Recommendations not to be addressed, including reasons for not implementing: HSP page or attachment # _____.
- 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 as HSP page or attachment # _____.
- The State's most recent assessment or update of its highway safety data and traffic records system was completed on _____/_____/_____.

_____

☐ **Part 3: Impaired Driving Countermeasures (23 CFR 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 1200.23(j) in the fiscal year of the grant.

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 __ ____/_____/_____. Specifically—

▪ HSP page or attachment # _____ describes the authority and basis for operation of the Statewide impaired driving task force;

▪ HSP page or attachment # _____ contains the list of names, titles and organizations of all task force members;

▪ HSP page or attachment # _____ 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 _____/_____/_____ 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 __ ____/_____/_____ that includes a review of a NHTSA-facilitated assessment of the State's impaired driving program conducted on ____ __/_____/_____. Specifically,—

▪ HSP page or attachment # _____ describes the authority and basis for operation of the Statewide impaired driving task force;

▪ HSP page or attachment # _____ contains the list of names, titles and organizations of all task force members;

▪ HSP page or attachment # _____ contains the strategic plan based on Highway Safety Guideline No. 8—Impaired Driving;

▪ HSP page or attachment # _____ addresses any related recommendations from the assessment of the State's impaired driving program;

▪ HSP page or attachment # _____ contains the detailed project list for spending grant funds;

▪ HSP page or attachment # _____ 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 __ ____/_____/_____ and updates its assessment review and spending plan provided as HSP page or attachment # _____.

☐ **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 _____/_____/_____ and last amended on _____/_____/_____, 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 _____/_____/_____ and last amended on _____/_____/_____, 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 _____/_____/_____ and last amended on _____/_____/_____, 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 as HSP page or attachment # _____.

☐ **Part 6: Distracted Driving Grants (23 CFR 1300.24)**

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

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

☐ **Comprehensive Distracted Driving Grant**

• The State provides sample distracted driving questions from the State's driver's license examination in HSP page or attachment # _____.

• **Prohibition on Texting While Driving**

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

Legal citations:

▪ _____ Prohibition on texting while driving;

▪ _____ Definition of covered wireless communication devices;

▪ _____ Minimum fine of at least $25 for 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, a minimum fine of at least $25, was enacted on _____/_____/_____ and last amended on _____/_____/_____, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Prohibition on youth cell phone use while driving;

▪ _____ 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.

☐ **Special Distracted Driving Grant for Fiscal Year 2017**

• The State's basic text messaging statute applying to drivers of all ages was enacted on _____/_____/_____ and last amended on __ ____/_____/____, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Basic text messaging statute;

▪ _____ Primary or secondary enforcement.

• The State is **NOT** eligible for a Comprehensive Distracted Driving Grant.

☐ **Special Distracted Driving Grant for Fiscal Year 2018**

• The State's basic text messaging statute applying to drivers of all ages was enacted _____/_____/_____ and last amended on _____/_____/_____, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Basic text messaging statute;

▪ _____ Primary enforcement;

▪ _____ Fine for a violation of the basic text messaging statute;

• The State's youth cell phone use ban statute, prohibiting youth cell phone use while driving, was enacted on _____/_____/_____ and last amended on _____/_____/_____, is in effect, and will be enforced during the fiscal year of the grant.

Legal citations:

▪ _____ Prohibition on youth cell phone use while driving;

▪ _____ Definition of covered wireless communication devices.

• The State is **NOT** eligible for a Comprehensive Distracted Driving Grant.

☐ **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 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.

• On HSP page or attachment # _____, 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.

• On HSP page or attachment # _____, performance measures and corresponding performance targets developed for motorcycle awareness 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.

• On HSP page or attachment # _____, countermeasure strategies and projects demonstrating that the State will implement data-driven programs in a majority of counties or political subdivisions corresponding with the majority of crashes involving at least one motorcycle and at least one motor vehicle causing a serious or fatal injury to at least one motorcyclist or motor vehicle occupant.

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

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

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

☐ **Impaired driving program:**

• On HSP page or attachment # _____, performance measures and corresponding performance targets developed to reduce impaired motorcycle operation.

• On HSP page or attachment # _____, countermeasure strategies and projects 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 as HSP page or attachment # _____.

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

☐ **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 _____ requires all fees collected by the State from motorcyclists for the purpose of funding motorcycle training and safety programs be spent on motorcycle training and safety programs. **Legal citation(s):** _____.

☐ Applying as a Data State—

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

☐ **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 licensing statute, requiring both a learner's permit stage and intermediate stage prior to receiving a full driver's license, was last amended on _____/_____/_____, 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 if applicant is younger than 18 years of age.

• _____Applicant must pass vision test and knowledge assessments

• _____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 course or at least 50 hours of behind-the-wheel training with at least 10 of those hours at night

• _____Prohibition on use of personal wireless communications device

• _____Extension of learner's permit stage if convicted

• _____Exemptions from graduated driver licensing law

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

• _____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 allowed

• _____Prohibition on use of personal wireless communications device

• _____Extension of intermediate stage if convicted

• _____Exemptions from graduated driver licensing law

☐ **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 1200.27(d) in the fiscal year of the grant.

☐ **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.*]

☐ On HSP page or attachment # _____, 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 a Federal-aid highway.

☐ On HSP page or attachment # _____, the State will undertake projects 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 a Federal-aid highway.

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 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 Interior) from each year's authorizations must be used in the highway safety programs of its political subdivisions prior to the period when funds would normally lapse. The local participation requirement is applicable to the State's total federally funded safety program irrespective of Standard designation or Agency responsibility.

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

(3) When Federal funds apportioned under 23 U.S.C. 402 are expended by a State agency for the benefit of a political subdivision, such funds may be considered as part of the local share, provided that the political subdivision has had an active voice in the initiation, development, and implementation of the programs for which such funds are expended. A State may not arbitrarily ascribe State agency expenditures as ''benefitting local government.'' Where political subdivisions have had an active voice in the initiation, development, and implementation of a particular program or activity, and a political subdivision which has not had such active voice agrees in advance of implementation to accept the benefits of the program, the Federal share of the cost of such benefits may be credited toward meeting the local participation requirement. Where no political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, but a political subdivision requests the benefits of the program as part of the local government's highway safety program, the Federal share of the cost of such benefits may be credited toward meeting the local participation requirement. Evidence of consent and acceptance of the work, goods or services on behalf of the local government must be established and maintained on file by the State until all funds authorized for a specific year are expended and audits completed.

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

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

Appendix 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 13 percent of the total funds the State receives under 23 U.S.C. 402. In accordance with 23 U.S.C. 120(i), the Federal share payable for projects in the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent. The Indian country, as defined by 23 U.S.C. 402(h), is exempt from these provisions. NHTSA funds shall be used only to finance P&A activities attributable to NHTSA programs.

(b) Terms.

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

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

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

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

(c) Procedures. (1) P&A activities and related costs shall be described in the P&A module of the State's Highway Safety Plan. The State's matching share shall be determined on the basis of the total P&A costs in the module. Federal participation shall not exceed 50 percent (or the applicable sliding scale) of the total P&A costs. A State shall not use NHTSA funds to pay more than 50 percent of the P&A costs attributable to NHTSA programs. In addition, the Federal contribution for P&A activities shall not exceed 13 percent of the total funds in the State received under 23 U.S.C. 402 each fiscal year.

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

(i) P&A;

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

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

(3) If an employee works solely performing P&A activities, the total salary and related costs may be programmed to P&A. If the employee works performing program management activities in one or more program areas, the total salary and related costs may be charged directly to the appropriate area(s). If an employee is working time on a combination of P&A and program management activities, the total salary and related costs may be charged to P&A and the appropriate program area(s) based on the actual time worked under each

area(s). If the State Highway Safety Agency elects to allocate costs based on actual time spent on an activity, the State Highway Safety Agency must keep accurate time records showing the work activities for each employee.

Issued on: May 16, 2016.

Mark R. Rosekind,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 2016–11819 Filed 5–20–16; 8:45 am]

BILLING CODE 4910–59–P