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distribution of funds provided by the State as required by §§1275.6(b) and 1275.7(a).

§ 1275.9 States' responsibilities regarding compliance.

(a) States are responsible for ensuring compliance with 23 U.S.C. 164 and this part.

(b) A State that has been determined to be in compliance with the require-

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ments of 23 U.S.C. 164 and this part must promptly notify the appropriate NHTSA Regional Administrator in writing of any change or change in enforcement of the State's repeat intoxicated driver law, identifying the specific change(s).

PARTS 1276-1299 [Reserved]

CHAPTER III—NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

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APPENDIX B TO PART 1300—APPLICATION REQUIREMENTS FOR SECTION 405 AND SECTION 1906 GRANTS.

APPENDIX C TO PART 1300—PARTICIPATION BY POLITICAL SUBDIVISIONS.

APPENDIX D TO PART 1300—PLANNING AND ADMINISTRATION (P&A) COSTS.

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

SOURCE: 81 FR 32580, May 23, 2016, unless otherwise noted.

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,

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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

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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 be distributed in proportion to the amount each State received under Section 402 for fiscal year 2009 to ensure, to the maximum extent practicable, that 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)

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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 en-

forcement (*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

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(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 State-wide 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, measurable progress improvements in the accuracy, completeness, timeliness, uniformity, accessibility or integration of data in a core highway safety database.

§ 1300.23 Impaired driving countermeasures grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(d), for awarding grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol, drugs, or the combination of alcohol and drugs; that enact alcohol-ignition interlock laws; or that implement 24-7 sobriety programs.

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

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

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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.

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(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 State-wide 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

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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 (1)(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 (1)(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-

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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

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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.

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(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 driving 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, eligibility determination, and use of grant funds;

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(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 21 and herein;

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

d. That, in event a contractor/funding recipient fails to comply with any non-discrimination 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 canceling, 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 sub-

paragraph (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 pro-

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

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

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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.

PARTS 1301–1313 [RESERVED]**PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM**

Sec.

- 1327.1 Scope.
- 1327.2 Purpose.
- 1327.3 Definitions.
- 1327.4 Certification, termination and reinstatement procedures.
- 1327.5 Conditions for becoming a participating State.
- 1327.6 Conditions and procedures for other authorized users of the NDR.
- 1327.7 Procedures for NDR information requests.

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS, WITHDRAWALS, AND CONVICTIONS OF MOTOR VEHICLE-RELATED OFFENSES

APPENDIX B TO PART 1327—OMB CLEARANCE

AUTHORITY: Pub.L. 97-364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

SOURCE: 56 FR 41403, Aug. 20, 1991, unless otherwise noted.

§ 1327.1

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§ 1327.1 Scope.

This part provides procedures for States to participate in the National Driver Register (NDR) Problem Driver Pointer System (PDPS) and for other authorized parties to receive information from the NDR. It includes, in accordance with section 204(c) of the NDR Act of 1982 (Pub. L. 97-364), procedures for a State to notify the Secretary of Transportation of its intention to be bound by the requirements of section 205 of the Act (*i.e.*, requirements for reporting by chief driver licensing officials) and for a State to notify the Secretary in the event it becomes necessary to withdraw from participation. The rule also contains the conditions for becoming a participating State as well as conditions and procedures for other authorized users of the NDR.

§ 1327.2 Purpose.

The purpose of this part is to implement the NDR Act of 1982, as amended.

§ 1327.3 Definitions.

(a) *Any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve* includes a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard.

(b) *Driver history record* means a detailed description of an individual's driver record, used in the American Association of Motor Vehicle Administrators' Commercial Driver's License Information System (CDLIS).

(c) *Driver improvement purposes* means information requests made by chief driver licensing officials in connection with the control and rehabilitation of drivers who are, based on their records, suspected of being or known to be problem drivers.

(d) *Driver license abstract* means the complete driver history of a driver's convictions, revocations, suspensions, denials, cancellations, accidents and interactions with the driver control and driver improvement authorities. Also known as Motor Vehicle Record (MVR) or Transcript.

(e) *Driver licensing purposes* means information requests made by chief driver licensing officials to determine if individuals applying for original, re-

newal, temporary, or duplicate licenses have had their driving privileges withdrawn in some other State.

(f) *Driver status response* means a response which indicates whether a driver currently holds a valid license.

(g) *Employers or prospective employers of motor vehicle operators* means persons that hire one or more individuals to operate motor vehicles on a regular basis during their normal course of employment.

(h) *For cause* as used in §1327.5(a) means that an adverse action taken by a State against an individual was based on a violation listed in Appendix A, Part I, an Abridged Listing of the American Association of Motor Vehicle Administrators (AAMVA) Violations Exchange Code, which is used by the NDR for recording license denials and withdrawals.

(i) *Fully electronic register system* means an NDR system in which all States that are participating in the NDR have been certified by the agency as participating States.

(j) *Interactive communication* means an active two-way computer connection which allows requesters to receive a response from the NDR almost immediately.

(k) *Match* means the occurrence when the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Probable Identification.

(l) *Non-minimum age driver license applicant* means a driver license applicant who is past the minimum age to apply for a license in the State making an NDR inquiry.

(m) *Non-PDPS State* means a State which operates under the old NDR by submitting complete substantive adverse driver licensing data to the NDR.

(n) *Participating State* means a State that has notified the agency of its intention to participate in the PDPS and has been certified by the agency as being in compliance with the requirements of Section 30304 of Title 49, United States Code and §1327.5 of this part.

(o) *Personnel security investigation* means an investigation of an individual

for the purpose of assisting in the determination of the eligibility of the individual for access to national security information under the authority of Executive Order No. 12968, or any successor Executive order, or for Federal employment in a position requiring access to national security information under the authority of Executive Order No. 10450, or any successor Executive order.

(p) *Pointer record* means a report containing the following data:

(1) The legal name, date of birth (including month, day, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(2) The name of the State transmitting such information; and

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number).

(q) *Probable identification* means the occurrence when the personal identifying information in an inquiry compares with the identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Match.

(r) *Problem Driver Pointer System (PDPS)* means a system whereby the NDR causes information regarding the motor vehicle driving records of individuals to be exchanged between the State which took adverse action against a driver (State of Record) and the State requesting the information (State of Inquiry).

(s) *PDPS State* means a State which participates in the PDPS by submitting pointer records for inclusion in the NDR file and by providing information to States of Inquiry as a State of Record.

(t) *Rapid Response System* means an interactive inquiry capability of the NDR system used by non-PDPS States.

(u) *Remote job entry* means an automated communication method in which information is transmitted in batches (usually a large number of records) and responses are also trans-

mitted in batches, all within a 24-hour period.

(v) *State of inquiry* means the State submitting an inquiry to the NDR to determine if it contains information regarding a driver license applicant.

(w) *State of record* means the State which took an adverse action against a driver and transmitted identification data regarding the driver to the NDR, in accordance with §1327.5(a) of this part.

(x) *Substantive adverse action data, substantive adverse driver licensing data and substantive data* mean data which give the details regarding a State's revocation, suspension, denial or cancellation of a driver's license, or the conviction of a driver, such as date, reason, eligible/restoration date, etc.

(y) *Transportation safety purposes* means information requests submitted on behalf of other parties authorized by the NDR Act of 1982, as amended, to receive NDR information.

(z) *Transition period* means the period which began on July 11, 1985 and will continue until a fully electronic register system is established, but not later than April 30, 1995.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 70 FR 43755, July 29, 2005; 70 FR 52298, Sept. 2, 2005]

§ 1327.4 Certification, termination and reinstatement procedures.

(a) *Certification requirement.* Only States that have been certified by NHTSA as participating States under PDPS may participate in the NDR. NHTSA will remove all records on file and will not accept any inquiries or reports from a State that has not been certified as a participating State.

(b) *Termination or cancellation.* (1) If a State finds it necessary to discontinue participation, the chief driver licensing official of the participating State shall notify NHTSA in writing, providing the reason for terminating its participation.

(2) The effective date of termination will be no less than 30 days after notification of termination.

(3) NHTSA will notify any participating State that changes its operations such that it no longer meets statutory and regulatory requirements, that its certification to participate in

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the NDR will be withdrawn if it does not come back into compliance within 30 days from the date of notification.

(4) If a participating State does not come back into compliance with statutory and regulatory requirements within the 30-day period, NHTSA will send a letter to the chief driver licensing official cancelling its certification to participate in the NDR.

(5) NHTSA will remove all records on file and will not accept any inquiries or reports from a State whose participation in the NDR has been terminated or cancelled.

(6) To be reinstated as a participating State after being terminated or cancelled, the chief driver licensing official shall follow the notification procedures in paragraphs (c)(1) and (3) of this section and must be re-certified by NHTSA as a participating State under PDPS, upon a determination by NHTSA that the State complies with the statutory and regulatory requirements for participation, in accordance with paragraphs (c)(2) and (4) of this section.

(c) *Reinstatement.* (1) The chief driver licensing official of a State that wishes to be reinstated as a participating State in the NDR under the PDPS shall send a letter notifying NHTSA that the State wishes to be reinstated as a participating State and certifying that the State intends to be bound by the requirements of Section 30304 of Title 49, United States Code and §1327.5. The letter shall also describe the changes necessary to meet the statutory and regulatory requirements of PDPS.

(2) NHTSA will acknowledge receipt of the State's notification within 20 days after receipt.

(3) The chief driver licensing official of a State that has notified NHTSA of its intention to be reinstated as a participating State will, at such time as it has completed all changes necessary to meet the statutory and regulatory requirements of PDPS, certify this fact to the agency.

(4) Upon receipt, review and approval of certification from the State, NHTSA will recertify the State as a participating State under PDPS.

(d) *New notification.* (1) NHTSA may, in its discretion, require in writing that a participating State submit a

new notification, certifying that it intends to be bound by the requirements of Section 30304 of Title 49, United States Code and §1327.5. The agency will exercise its discretion to require this notification when statutory changes have altered a participating State's reporting or inquiry requirements under Section 30304 of Title 49, United States Code.

(2) After receiving a written request from NHTSA under paragraph (d)(1) of this section, a participating State will have 90 days to submit the requested notification. If a participating State does not submit the requested notification within the 90-day time period, NHTSA will send a letter to the chief driver licensing official of a State canceling its status as a participating State.

[65 FR 45716, July 25, 2000, as amended at 70 FR 43755, July 29, 2005]

§ 1327.5 Conditions for becoming a participating State.

(a) *Reporting requirements.* (1) The chief driver licensing official in each participating State shall transmit to the NDR a report regarding any individual—

(i) Who is denied a motor vehicle operator's license by such State for cause;

(ii) Whose motor vehicle operator's license is canceled, revoked, or suspended by such State for cause; or

(iii) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

(2) A report shall not be transmitted by the chief driver licensing official of a participating State, regarding an individual, unless that individual has had his or her motor vehicle operator's license denied, canceled, revoked, or suspended for cause as represented by the codes in appendix A, part I, of this part, or been convicted of a motor vehicle-related offense as represented by the codes in appendix A, part II, of this part. Unless the report transmitted to the NDR is based on these codes, NHTSA will contact the participating State responsible for the record and request its removal from the NDR.

(3) Any report regarding any individual which is transmitted by a chief driver licensing official pursuant to this requirement shall contain the following data:

(i) The legal name, date of birth (including day, month, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(ii) The name of the State transmitting such information; and

(iii) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(iv) Any report concerning an occurrence identified in paragraph (a)(1) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(4) These records, defined as pointer records, shall be transmitted by the chief driver licensing official to the NDR not later than 31 days after the adverse action information is received by the motor vehicle department or 6 months after the date on which such State becomes a participating State.

(5) No State will be required to report information concerning an occurrence which happened before the two-year period preceding the date on which the State becomes a participating State.

(b) *State of inquiry function for driver licensing and driver improvement pur-*

poses. (1) The chief driver licensing official of a participating State shall submit an inquiry to both the NDR and the Commercial Driver's License Information System for each driver license applicant before issuing a license to that applicant. The issuance of a license includes but is not limited to any original, renewal, temporary, or duplicate license that results in a grant or extension of driving privileges in a participating State.

(2) The chief driver licensing official of a participating State may submit inquiries for other driver licensing and driver improvement purposes.

(c) *State of inquiry function for transportation safety purposes (on behalf of other authorized users).* The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from the following groups which are authorized to receive information from the NDR file through participating States:

(1) National Transportation Safety Board (NTSB) and Federal Highway Administration (FHWA) for accident investigation purposes. The Chairman of the NTSB and/or the Administrator of the FHWA shall submit requests for NDR searches in writing through the participating State with which previous arrangements have been made to process these requests. The chief driver licensing official shall provide to the requesting agency the NDR response indicating either Probable Identification (match) or No Record Found. In the case of a probable identification, the State of Record will also be identified in the response so that the NTSB or FHWA may obtain additional information regarding the individual's driving record.

(2) Employers and Prospective Employers of individuals licensed to drive a motor vehicle in the State (including Federal Agencies); Federal Aviation Administration regarding any individual who has applied for or received an airman's certificate; the Federal Railroad Administration and employers/prospective employers regarding individuals who are employed or seeking employment as railroad locomotive operators; and the U.S. Coast Guard regarding any individual who holds or

who has applied for a license or certificate of registry under section 7101 of title 46 of the U.S. Code, or a merchant mariner's document under section 7302 of that title, or regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve. Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

(i) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the authorized user if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

(A) State that NDR records are to be released;

(B) Specifically state who is authorized to receive the records;

(C) Be signed and dated by the individual or the individual's legal representative;

(D) Specifically state that the authorization is valid for only one search of the NDR; and

(E) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(ii) Any request made by an authorized user may include, in lieu of the actual information described in paragraphs (c)(2)(i) (C) through (E) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid for only one search of the NDR, and specifically stated that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the

authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(iii) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the authorized user may obtain additional information regarding the individual's driving record.

(3) The head of a Federal department or agency that issues motor vehicle operator's licenses about an individual applicant for a motor vehicle operator's license from such department or agency. The head of the department or agency may request NDR information through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator's license for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;

(B) The name of the agency transmitting such information; and

(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the

operator's social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

(4) Individuals who wish to learn what information about themselves, if any, is in the NDR file, or whether and to whom such information has been disclosed.

(i) Upon receiving a request for an NDR search from an individual for information concerning himself or herself, the chief driver licensing official shall inform the individual of the procedure for conducting such a search and provide the individual a request form which, when properly completed, will be forwarded to the NDR either by the chief driver licensing official or by the individual.

(ii) The request form provided by the chief driver licensing official to the individual must provide for the following:

- (A) Full legal name;
- (B) Other names used (nicknames, professional name, maiden name, etc.);
- (C) Month, day and year of birth;
- (D) Sex;
- (E) Height;
- (F) Weight;
- (G) Color of eyes;
- (H) Social Security Number (SSN) and/or driver license number (provision of SSN is voluntary);
- (I) Individual's full address;
- (J) Home and office telephone number (provision of telephone number is voluntary);
- (K) Signature;
- (L) Proof of identification—Acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State; and
- (M) Notarization—This is required only if the individual chooses to mail the request directly to the NDR.

(iii) Upon receipt of the individual's request for a NDR file check, NHTSA will search its computer file and mail the results (*i.e.*, notification of no

record found or copies of any records found) directly to the individual.

(iv) The chief driver licensing official shall advise the requesting individual to contact the Chief, National Driver Register by mail or telephone for guidance regarding the procedure for alteration or correction of NDR-maintained records in the event he or she believes they are incorrect.

(d) *Personnel security investigations.* The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from individuals subject to personnel security investigations and from Federal departments or agencies that are authorized to perform personnel security investigations. These authorized users may receive information from the NDR file through participating States.

(1) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the Federal department or agency if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

- (i) State that NDR records are to be released;
- (ii) Specifically state who is authorized to receive the records;
- (iii) Be signed and dated by the individual or individual's legal representative;
- (iv) Specifically state that the authorization is valid only for the duration of the personnel security investigation; and
- (v) Specifically state that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(2) Any request made by a Federal department or agency may include, in lieu of the actual information described in paragraphs (d)(1)(iii) through (v) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid only for the duration of the personnel security

investigation, and specifically stated that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(3) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the Federal department or agency may obtain additional information regarding the individual's driving record.

(e) *State of record functions.* The chief driver licensing official of a participating State shall implement the necessary computer system and procedures to respond to requests for driver record information. When a request to the NDR results in a match, the chief driver licensing official of a participating State shall also:

(1) Provide a driver status response interactively to the State of Inquiry or the NDR upon receipt of a request for this response from the NDR;

(2) Provide a Driver History Record from its file to the State of Inquiry upon receipt of a request for this record from the State of Inquiry; and

(3) Forward a driver license abstract (full motor vehicle record) to the State of Inquiry upon receipt of a request for this record either from the NDR or directly from the State of Inquiry, and to other authorized users upon receipt of a request directly from the user.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 64 FR 19271, Apr. 20, 1999; 70 FR 43755, July 29, 2005; 70 FR 52299, Sept. 2, 2005; 71 FR 19826, Apr. 18, 2006]

§ 1327.6 Conditions and procedures for other authorized users of the NDR.

(a) *NTSB and FHWA.* To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been es-

tablished, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) *Federal departments or agencies that issue motor vehicle operator's licenses.* To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator's licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator's licenses may also submit a request for an NDR file check to the NDR directly, in accordance with procedures established by the NDR for that purpose.

(c) *Employers or prospective employers of motor vehicle operators (including Federal Agencies).* (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) *Federal Aviation Administration.* (1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the

probable identification is in fact the airman concerned before using the information as the basis of any action against the individual.

(e) *Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators.* (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) *U.S. Coast Guard.* (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) *Air carriers.* (1) To initiate an NDR file check, the individual seeking em-

ployment as a pilot with an air carrier shall follow the procedures specified in §1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104-264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(h) *Federal departments or agencies conducting personnel security investigations.* (1) To initiate an NDR file check, an individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR information, the Federal department or agency should make information from the State of Record available to the individual for review and comment.

(3) In the case of a match (probable identification), the Federal department or agency conducting the personnel security investigation should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis for any action against the individual.

(4) A Federal department or agency that receives information about an individual under this section may use such information only for purposes of the authorized investigation and only in accordance with applicable law.

(i) *Third parties.* If a third party is used by any of the above authorized users to request the NDR check, both the individual concerned and an authorized representative of the authorized user organization shall sign a written consent authorizing the third party to act in this role. The written consent must:

(1) State that NDR records are to be released;

(2) State as specifically as possible who is authorized to request the records, and that such party is not authorized to receive NDR information;

(3) Be signed and dated by the individual (or legal representative as appropriate) and an authorized representative of the authorized user organization;

(4) Specifically state that the request authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy. The third party may not, however, receive the NDR response to a file search.

(j) *Individuals.* (1) When a check of the NDR is desired by any individual in order to determine whether the NDR is disclosing any data regarding him or her or the accuracy of such data, or to obtain a copy of the data regarding him or her, the individual shall submit his or her request to a participating State in accordance with the procedures established by that State for this purpose.

(2) The individual will be asked to provide the following information to the chief driver licensing official in order to establish positive identification:

(i) Full legal name;

(ii) Other names used (nickname, professional name, maiden name, etc.);

(iii) Month, day and year of birth;

(iv) Sex;

(v) Height;

(vi) Weight;

(vii) Color of eyes;

(viii) Driver license number and/or Social Security Number (SSN) (provision of SSN is optional);

(ix) Full address;

(x) Signature;

(xi) Proof of identification (acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State); and

(xii) Notarization (this is required only if the individual chooses to mail the request directly to the NDR).

(3) Individuals are authorized also, under the Privacy Act of 1974, to request such information directly from the NDR.

(4) Individuals seeking to correct an NDR-maintained record should address their request to the chief of the National Driver Register. When any information contained in the Register is confirmed by the State of Record to be in error, the NDR will correct the record accordingly and advise all previous recipients of the information that a correction has been made.

[56 FR 41403, Aug. 20, 1991; 56 FR 57255, 57374, Nov. 8, 1991; 62 FR 27195, May 19, 1997; 62 FR 63657, Dec. 2, 1997; 63 FR 153, Jan. 5, 1998; 64 FR 19272, Apr. 20, 1999; 70 FR 52299, Sept. 2, 2005]

§ 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as pilot with an air carrier; or an individual subject to a personnel security investigation; shall either:

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose; or

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.

(d) The request for an NDR file check or the written consent, whichever is used, must:

(1) State that the NDR records are to be released;

(2) State as specifically as possible who is authorized to receive the records;

(3) Be signed and dated by the individual (or the individual's legal representative as appropriate);

(4) Specifically state that the authorization is valid for only one search of the NDR (or in the case of a personnel security investigation state that the authorization is valid only for the duration of the investigation); and

(5) Except for inquiries concerning personnel security investigations, specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

[64 FR 19273, Apr. 20, 1999, as amended at 70 FR 52299, Sept. 2, 2005]

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS, WITHDRAWALS, AND CONVICTIONS OF MOTOR VEHICLE-RELATED OFFENSES

Code

PART I—FOR CAUSE WITHDRAWALS

A04	Driving under the influence of alcohol with BAC at or over .04
A08	Driving under the influence of alcohol with BAC at or over .08
A10	Driving under the influence of alcohol with BAC at or over .10
A11	Driving under the influence of alcohol with BAC at or over — (detail field required)
A12	Refused to submit to test for alcohol—Implied Consent Law
A20	Driving under the influence of alcohol or drugs
A21	Driving under the influence of alcohol
A22	Driving under the influence of drugs
A23	Driving under the influence of alcohol and drugs
A24	Driving under the influence of medication not intended to intoxicate
A25	Driving while impaired
A26	Drinking alcohol while operating a vehicle
A31	Illegal possession of alcohol
A33	Illegal possession of drugs (controlled substances)
A35	Possession of open alcohol container
A41	Driver violation of ignition interlock or immobilization device
A50	Motor vehicle used in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance
A60	Underage Convicted of Drinking and Driving at .02 or higher BAC
A61	Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC
A90	Administrative Per Se for .10 BAC
A94	Administrative Per Se for .04 BAC
A98	Administrative Per Se for .08 BAC
B01	Hit and run—failure to stop and render aid after accident
B02	Hit and run—failure to stop and render aid after accident—Fatal accident
B03	Hit and run—failure to stop and render aid after accident—Personal injury accident
B04	Hit and run—failure to stop and render aid after accident—Property damage accident
B05	Leaving accident scene before police arrive
B06	Leaving accident scene before police arrive—Fatal accident

- B07 Leaving accident scene before police arrive—Personal injury accident
- B08 Leaving accident scene before police arrive—Property damage accident
- B14 Failure to reveal identity after fatal or personal injury accident
- B19 Driving while out of service order is in effect and transporting 16 or more passengers including the driver and/or transporting hazardous materials that require a placard
- B20 Driving while license withdrawn
- B21 Driving while license barred
- B22 Driving while license canceled
- B23 Driving while license denied
- B24 Driving while license disqualified
- B25 Driving while license revoked
- B26 Driving while license suspended
- B27 General, driving while an out of service order is in effect (for violations not covered by B19)
- B41 Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID
- B51 Expired or no driver license (includes DL, CDL, and Instruction Permit)
- B56 Driving a CMV without obtaining a CDL
- B63 Failed to file future proof of financial responsibility
- B91 Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit)
- D02 Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit)
- D06 Misrepresentation of identity or other facts to obtain alcohol
- D07 Possess multiple driver licenses (includes DL, CDL, and Instruction Permit)
- D16 Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit)
- D27 Violate limited license conditions
- D29 Violate restrictions of driver license (includes DL, CDL, and Instruction Permit)
- D35 Failure to comply with financial responsibility law
- D38 Failure to post security or obtain release from liability
- D39 Unsatisfied judgment
- D45 Failure to appear for trial or court appearance
- D53 Failure to make required payment of fine and costs
- D56 Failure to answer a citation, pay fines, penalties and/or costs related to the original violation
- D72 Inability to control vehicle
- D74 Operating a motor vehicle improperly because of drowsiness
- D75 Operating a motor vehicle improperly due to physical or mental disability
- D78 Perjury about the operation of a motor vehicle
- E03 Operating without HAZMAT safety equipment as required by law
- F02 Child or youth restraint not used properly as required
- F03 Motorcycle safety equipment not used properly as required
- F04 Seat belt not used properly as required
- F05 Carrying unsecured passengers in open area of vehicle
- F06 Improper operation of or riding on a motorcycle
- M09 Failure to obey railroad crossing restrictions
- M10 For all drivers, failure to obey a traffic control device or the directions of an enforcement official at a railroad-highway grade crossing
- M20 For drivers who are not required to always stop, failure to slow down at a railroad-highway grade crossing and check that tracks are clear of approaching train
- M21 For drivers who are not required to always stop, failure to stop before reaching tracks at a railroad-highway grade crossing when the tracks are not clear
- M22 For drivers who are always required to stop, failure to stop as required before driving onto railroad-highway grade crossing
- M23 For all drivers, failing to have sufficient space to drive completely through the railroad-highway grade crossing without stopping
- M24 For all drivers, failing to negotiate a railroad-highway grade crossing because of insufficient undercarriage clearance
- M80 Reckless, careless, or negligent driving
- M81 Careless driving
- M82 Inattentive driving
- M83 Negligent driving
- M84 Reckless driving
- S01 01–05 >Speed limit (detail optional)
- S06 06–10 >Speed limit (detail optional)
- S15 Speeding 15 mph or more above speed limit (detail optional)
- S16 16–20 >Speed limit (detail optional)
- S21 21–25 >Speed limit (detail optional)
- S26 26–30 >Speed limit (detail optional)
- S31 31–35 >Speed limit (detail optional)
- S36 36–40 >Speed limit (detail optional)
- S41 41 + >Speed limit (detail optional)
- S51 01–10 >Speed limit (detail optional)
- S71 21–30 >Speed limit (detail optional)
- S81 31–40 >Speed limit (detail optional)
- S91 41 + >Speed limit (detail optional)
- S92 Speeding—Speed limit and actual speed (detail required)
- S93 Speeding
- S94 *Prima Facie* speed violation or driving too fast for conditions
- S95 Speed contest (racing) on road open to traffic
- S97 Operating at erratic or suddenly changing speeds
- U01 Fleeing or evading police or roadblock
- U02 Resisting arrest

- U03 Using a motor vehicle in connection with a felony (not traffic offense)
- U05 Using a motor vehicle to aid and abet a felon
- U06 Vehicular assault
- U07 Vehicular homicide
- U08 Vehicular manslaughter
- U09 Negligent homicide while operating a CMV
- U10 Causing a fatality through the negligent operation of a CMV
- U31 Violation resulting in fatal accident
- W01 Accumulation of convictions (including point systems and/or being judged a habitual offender or violator)
- W14 Physical or mental disability
- W20 Unable to pass DL test(s) or meet qualifications
- W30 Two serious violations within three years
- W31 Three serious violations within three years
- W40 The accumulation of two or more major offenses
- W41 An additional major offense after reinstatement
- W50 The accumulation of two out-of-service order general violations (violations not covered by W51) within ten years
- W51 The accumulation of two out-of-service order violations within ten years while transporting 16 or more passengers, including the driver and/or transporting hazardous materials that require a placard
- W52 The accumulation of three or more out-of-service order violations within ten years
- W60 The accumulation of two RRGV violations within three years.
- W61 The accumulation of three or more RRGV violations within three years.
- W70 Imminent hazard
- PART II—CONVICTIONS
- A04 Driving under the influence of alcohol with BAC at or over .04
- A08 Driving under the influence of alcohol with BAC at or over .08
- A10 Driving under the influence of alcohol with BAC at or over .10
- A11 Driving under the influence of alcohol with BAC at or over ____ (detail field required)
- A12 Refused to submit to test for alcohol—Implied Consent Law
- A20 Driving under the influence of alcohol or drugs
- A21 Driving under the influence of alcohol
- A22 Driving under the influence of drugs
- A23 Driving under the influence of alcohol and drugs
- A24 Driving under the influence of medication not intended to intoxicate
- A25 Driving while impaired
- A26 Drinking alcohol while operating a vehicle
- A31 Illegal possession of alcohol
- A33 Illegal possession of drugs (controlled substances)
- A35 Possession of open alcohol container
- A41 Driver violation of ignition interlock or immobilization device
- A50 Motor vehicle used in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance
- A60 Underage Convicted of Drinking and Driving at .02 or higher BAC
- A61 Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC
- A90 Administrative Per Se for .10 BAC
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- A98 Administrative Per Se for .08 BAC
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- B26 Driving while license suspended
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- B41 Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID
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- B56 Driving a CMV without obtaining a CDL
- B91 Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit)
- D02 Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit)
- D06 Misrepresentation of identity or other facts to obtain alcohol

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- D07 Possess multiple driver licenses (includes DL, CDL, and Instruction Permit)
- D16 Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit)
- D27 Violate limited license conditions
- D29 Violate restrictions of driver license (includes DL, CDL, and Instruction Permit)
- D72 Inability to control vehicle
- D78 Perjury about the operation of a motor vehicle
- E03 Operating without HAZMAT safety equipment as required by law
- M09 Failure to obey railroad crossing restrictions
- M10 For all drivers, failure to obey a traffic control device or the directions of an enforcement official at a railroad-highway grade crossing
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- M83 Negligent driving
- M84 Reckless driving
- S95 Speed contest (racing) on road open to traffic
- U07 Vehicular homicide
- U08 Vehicular manslaughter
- U09 Negligent homicide while operating a CMV
- U10 Causing a fatality through the negligent operation of a CMV
- U31 Violation resulting in fatal accident

[70 FR 43756, July 29, 2005]

APPENDIX B TO PART 1327—OMB CLEARANCE

The OMB clearance number of this regulation is OMB 2127-0001.

PART 1335 [RESERVED]

23 CFR Ch. III (4-1-17 Edition)

PART 1340—UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Subpart A—General

- Sec.
- 1340.1 Purpose.
- 1340.2 Applicability.
- 1340.3 Definitions.

Subpart B—Survey Design Requirements

- 1340.4 In general.
- 1340.5 Selection of observation sites.
- 1340.6 Assignment of observation times.
- 1340.7 Observation procedures.
- 1340.8 Quality control.
- 1340.9 Computation of estimates.

Subpart C—Administrative Requirements

- 1340.10 Submission and approval of seat belt survey design.
- 1340.11 Post-approval alterations to survey design.
- 1340.12 Re-selection of observation sites.
- 1340.13 Annual reporting requirements.

APPENDIX A TO PART 1340—STATE SEAT BELT USE SURVEY REPORTING FORM

AUTHORITY: 23 U.S.C. 402; delegation of authority at 49 CFR 1.50.

SOURCE: 76 FR 18056, Apr. 1, 2011, unless otherwise noted.

Subpart A—General

§ 1340.1 Purpose.

This part establishes uniform criteria for State surveys of seat belt use conducted under 23 U.S.C. 402, procedures for NHTSA approval of survey designs, and administrative requirements relating to State seat belt surveys.

§ 1340.2 Applicability.

This part applies to State surveys of seat belt use beginning in calendar year 2013 and continuing annually thereafter. However, a State may elect to conduct its calendar year 2012 seat belt use survey using a survey design approved under this part.

[77 FR 20551, Apr. 5, 2012]

§ 1340.3 Definitions.

As used in this part—
Access ramp means the segment of a road that forms a cloverleaf or limited access interchange.

Cul-de-sac means the closed end of a road that forms a loop or turn-around.

Non-public road means a road on which members of the general public are not allowed to drive motor vehicles.

Nonresponse rate means, for any survey variable, the percentage of unknown values recorded for that variable.

Observation site means the physical location where survey data are collected.

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

Service drive means the segment of a road that provides access to businesses and rest areas.

Traffic circle means the segment of a road or intersection of roads forming a roundabout.

Unnamed road means a road, public or private, that has no name or number designation and is often a farm or logging road.

Vehicular trail means a road designed or intended primarily for use by motor vehicles with four-wheel drive.

of road inventories approved by NHTSA or provided by NHTSA.

(ii) Except as provided in paragraph (a)(2)(iii) of this section, all roads in the State shall be eligible for sampling. The sampling frame may not be limited only to roads having a stop sign, stop light or State-maintained roads.

(iii) The sampling frame need not include: rural local roads, as classified by the Federal Highway Administration's Functional Classification Guidelines, in counties that are not within a Metropolitan Statistical Area (MSA), as published by the Office of Management and Budget; non-public roads; unnamed roads; unpaved roads; vehicular trails; access ramps; cul-de-sacs; traffic circles; or service drives.

(b) *Sampling selection requirements.* The set of road segments selected for observation sites shall be chosen based on probability sampling, except that—

(1) The specific observation site locations on the sampled road segments may be deterministically selected;

(2) An alternate observation site may be used to replace an observation site selected based on probability sampling if it is located in the same county or county-equivalent, and has the same roadway classification (e.g., local road segment, collector road segment) when using the protocol of substitution and rescheduling of observation sites pursuant to paragraph (c) of this section.

(c) *Requirements for substitution and rescheduling of observation sites.* The survey design shall include at a minimum the following protocols:

(1) *Protocol when observation site is temporarily unavailable for data collection.* (i) Observers shall return to the observation site at another time provided that it is on the same day of the week and at same time of the day or select an alternate observation site, as described in paragraph (b)(2) of this section, provided the data are collected on the same day and at approximately the same time as the originally-scheduled observation site.

(ii) The original observation site must be used for future data collections.

(2) *Protocol when observation site is permanently unavailable for data collection.* (i) Except as provided in paragraph (c)(2)(ii), another observation

Subpart B—Survey Design Requirements

§ 1340.4 In general.

This subpart sets forth the minimum design requirements to be incorporated in surveys conducted under this part.

§ 1340.5 Selection of observation sites.

(a) *Sampling frame requirements—*(1) *County coverage.* The sampling frame from which observation sites are selected shall include counties or county-equivalents (including tribal territories), as defined by the U.S. Census Bureau, that account for at least 85 percent of the State's passenger vehicle occupant fatalities, provided that the average of the last three, four or five years, at the State's option, of available Fatality Analysis Reporting System (FARS) data or State fatality data approved by NHTSA shall be used to determine the State's passenger vehicle occupant fatalities.

(2) *Road coverage.* (i) States shall select observation sites from a database

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site shall be selected in accordance with paragraph (b) of this section.

(ii) If it is not feasible to select another observation site based on probability sampling for the current data collection, an alternate observation site, as described in paragraph (b)(2) of this section, may be selected, provided the data is collected on the same day and at approximately the same time as the originally-scheduled observation site.

(iii) For future data collections, another observation site must be selected based on probability sampling in accordance with paragraph (b) of this section.

(d) *Precision requirement.* The estimated seat belt use rate must have a standard error of no more than 2.5 percentage points.

§ 1340.6 Assignment of observation times.

(a) *Daylight hours.* All daylight hours between 7 a.m. and 6 p.m. for all days of the week shall be eligible for inclusion in the sample.

(b) *Random assignment.* Except as provided in paragraph (c) of this section, the day-of-the-week and time-of-the-day shall be randomly assigned to observation sites.

(c) *Grouping of observation sites in close geographic proximity.* Observations sites in close geographic proximity may be grouped to reduce data collection burdens if:

(1) The first assignment of an observation site within the group is randomly selected; and

(2) The assignment of other observations sites within the group is made in a manner that promotes administrative efficiency and timely completion of the survey.

§ 1340.7 Observation procedures.

(a) *Data collection dates.* All survey data shall be collected through direct observation completely within the calendar year for which the Statewide seat belt use rate will be reported. Except as provided in §1340.5(c), the survey shall be conducted in accordance to the schedule determined in §1340.6.

(b) *Roadway and direction(s) of observation*—(1) *Intersections.* If an observation site is located at an intersection

of road segments, the data shall be collected from the sampled road segment, not the intersecting road segment(s).

(2) *Roads with two-way traffic.* If an observation site is located on a road with traffic traveling in two directions, one or both directions of traffic may be observed, provided that—

(i) If only one direction of traffic is observed, that direction shall be chosen randomly;

(ii) If both directions of traffic are observed at the same time, States shall assign at least one person to observe each direction of traffic.

(c) *Vehicle coverage.* Data shall be collected by direct observation from all passenger motor vehicles, including but not limited to passenger motor vehicles used for commercial purposes, passenger motor vehicles exempt from the State's seat belt use law and passenger motor vehicles bearing out-of-State license plates.

(d) *Occupant coverage.* Data shall be collected by direct observation of all drivers and right front passengers, including right front passengers in booster seats, but excluding right front passengers in child safety seats. Observers shall record a person as—

(1) Belted if the shoulder belt is in front of the person's shoulder;

(2) Unbelted if the shoulder belt is not in front of the person's shoulder;

(3) Unknown if it cannot reasonably be determined whether the driver or right front passenger is belted.

(e) *Survey data.* At a minimum, the seat belt use data to be collected by direct observation shall include—

(1) Seat belt status of driver;

(2) Presence of right front passenger; and

(3) Seat belt status of right front passenger, if present.

(f) *Data collection environment.* When collecting seat belt survey data—

(1) Observers shall not wear law enforcement uniforms;

(2) Police vehicles and persons in law enforcement uniforms shall not be positioned at observation sites;

(3) Communications by signage or any other means that a seat belt survey is being or will be conducted shall not be present in the vicinity of the observation site.

§ 1340.8 Quality control.

(a) *Quality control monitors.* Monitors shall conduct random, unannounced visits to no less than five percent of the observation sites for the purpose of quality control. The same individual shall not serve as both the observer and quality control monitor at the same observation site at the same time.

(b) *Training.* Observers and quality control monitors involved in seat belt use surveys shall have received training in data collection procedures within the past twelve months. Observers and quality control monitors shall be trained in the observation procedures of §1340.7 and in the substitution and rescheduling requirements of §1340.5(c).

(c) *Statistical review.* Survey results shall be reviewed and approved by a survey statistician, *i.e.*, a person with knowledge of the design of probability-based multi-stage samples, statistical estimators from such designs, and variance estimation of such estimators.

§ 1340.9 Computation of estimates.

(a) *Data used.* Except as otherwise provided in this section, all data collected pursuant to §1340.7(e) shall be used, without exclusion, in the computation of the Statewide seat belt use rate, standard error, and nonresponse rate.

(b) *Data editing.* Known values of data contributing to the Statewide seat belt use rate shall not be altered in any manner.

(c) *Imputation.* Unknown values of variables shall not be imputed unless NHTSA has approved the State's imputation procedure prior to data analysis.

(d) *Sampling weights.* The estimation formula shall weight observed data by the sampling weights as required by the sample design and any subsequent adjustments.

(e) *Sampling weight adjustments for observation sites with no usable data.* States shall include a procedure to adjust the sampling weights for observation sites with no usable data, including observation sites where no data were collected and observation sites where data were discovered to be falsified.

(f) *Nonresponse rate.* (1) Subject to paragraph (f)(2) of this section, the

nonresponse rate for the entire survey shall not exceed 10 percent for the ratio of the total number of recorded unknown values of belt use to the total number of drivers and passengers observed.

(2) The State shall include a procedure for collecting additional observations in the same calendar year of the survey to reduce the nonresponse rate to no more than 10 percent if the nonresponse rate in paragraph (f)(1) of this section exceeds 10 percent.

(g) *Variance estimation.* (1) Subject to paragraph (g)(2) of this section, the estimated standard error, using the variance estimation method in the survey design, shall not exceed 2.5 percentage points.

(2) If the standard error exceeds this threshold, additional observations shall be conducted in the same calendar year of the survey until the standard error does not exceed 2.5 percentage points.

Subpart C—Administrative Requirements**§ 1340.10 Submission and approval of seat belt survey design.**

(a) *Contents.* The following information shall be included in the State's seat belt survey design submitted for NHTSA approval:

(1) *Sample design.* The State shall—

(i) Define all sampling units, with their measures of size, as provided in §1340.5(a);

(ii) Specify the data source of the sampling frame of road segments (observation sites), as provided in §1340.5(a)(2)(i);

(iii) Specify any exclusions that have been applied to the sampling frame, as provided in §1340.5(a)(2)(iii);

(iv) Define what stratification was used at each stage of sampling and what methods were used for allocation of the sample units to the strata;

(v) Specify the method used to select the road segments for observation sites as provided by §1340.5(b).

(vi) List all observation sites and their probabilities of selection;

(vii) Explain how the sample sizes were determined, as provided in §1340.5(d);

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(viii) Describe how observation sites were assigned to observation time periods, as provided in § 1340.6; and

(ix) Identify the name and describe the qualifications of the State survey statistician meeting the requirements in § 1340.8(c).

(2) *Data collection.* The State shall—

(i) Define an observation period;

(ii) Specify the procedures to be implemented to reschedule or substitute observation sites when data collection is not possible on the date and time assigned, as provided in § 1340.5(c);

(iii) Specify the procedures for collecting additional data to reduce the nonresponse rate, as provided in § 1340.9(f)(2);

(iv) Describe the data recording procedures; and

(v) Specify the number of observers and quality control monitors.

(3) *Estimation.* The State shall—

(i) Describe how seat belt use rate estimates will be calculated;

(ii) Describe how variances will be estimated, as provided in § 1340.9(g);

(iii) Specify imputation methods, if any, that will be used, as provided in § 1340.9(c);

(iv) Specify the procedures to adjust sampling weight for observation sites with no usable data, as provided in § 1340.9(e); and

(v) Specify the procedures to be followed if the standard error exceeds 2.5 percentage points, as required in § 1340.5(g).

(b) *Survey design submission deadline.* For calendar year 2012, States shall submit proposed survey designs to NHTSA for approval no later than January 3, 2012. Thereafter, States should submit survey designs for NHTSA approval as specified in § 1340.11.

§ 1340.11 Post-approval alterations to survey design.

After NHTSA approval of a survey design, States shall submit for NHTSA approval any proposed alteration to their survey design, including, but not limited to, sample design, seat belt use rate estimation method, variance estimation method and data collection protocols, at least three months before data collection begins.

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§ 1340.12 Re-selection of observation sites.

(a) *Re-selection of observation sites.* States shall re-select observation sites using updated sampling frame data, as described in § 1340.5(a), no less than once every five years.

(b) *Re-selection submission deadline.* States shall submit updated sampling frame data meeting the requirements of § 1340.5(a) for NHTSA approval no later than March 1 of the re-selection year.

§ 1340.13 Annual reporting requirements.

(a) *Survey data.* States shall report the following information no later than March 1 of each year for the preceding calendar year's seat belt use survey, using the reporting form in appendix A to this part:

(1) Spreadsheet in electronic format containing the raw data for each observation site and the observation site weight;

(2) Statewide seat belt use rate estimate and standard error;

(3) Nonresponse rate for the variable "belt use," as provided in § 1340.9(f);

(4) Dates of the reported data collection;

(5) Observation sites, identified by type of observation site (*i.e.*, observation site selected in the original survey design, alternate observation site selected subsequent to the original survey design), and by characteristics of the observation site visit (*i.e.*, at least one vehicle observed, no vehicles observed); and

(6) Name of the State survey statistician meeting the qualification requirements, as provided in § 1340.8(c).

(b) *Certifications by Governor's Highway Safety Representative.* The Governor's Highway Safety Representative (GR) or if delegated in writing, the Coordinator of the State Highway Safety Office, shall sign the reporting form certifying that—

(1) _____ has been designated by the Governor as the GR, and if applicable, the GR has delegated the authority to sign the certification in writing to _____, the Coordinator of the State Highway Safety Office;

(2) The reported Statewide seat belt use rate is based on a survey design that was approved by NHTSA, in writing, as conforming to the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340;

(3) The survey design has remained unchanged since the survey was approved by NHTSA; and

(4) _____, a qualified survey statistician, reviewed the seat belt use rate reported in Part A (of the certification) and information reported in Part B and has determined that they meet the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR part 1340.

(c) [Reserved]

(d) *Audits.* NHTSA may audit State survey results and data collection. The State shall retain the following records for five years and make them available to NHTSA in electronic format within four weeks of request:

(1) Computation programs used in the sample selection;

(2) Computation programs used to estimate the Statewide seat belt use rate and standard errors for the surveys conducted since the last NHTSA approval of the sample design; and

(3) Sampling frame(s) for design(s) used since the last NHTSA approval of the sample design.

APPENDIX A TO PART 1340—STATE SEAT BELT USE SURVEY REPORTING FORM

PART A: To be completed by the Governor's Highway Safety Representative (GR), and if applicable, the Coordinator of the State Highway Safety Office.

State: _____

Calendar Year of Survey: _____

Statewide Seat Belt Use Rate: _____

I hereby certify that:

- _____ has been designated by the Governor as the State's Highway Safety Representative (GR), and if applicable, the GR has delegated the authority to sign the certification in writing to _____, the Coordinator of the State Highway Safety Office.

- The reported Statewide seat belt use rate is based on a survey design that was approved by NHTSA, in writing, as conforming to the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340.

- The survey design has remained unchanged since the survey was approved by NHTSA.

- _____, a qualified survey statistician, has reviewed the seat belt use rate reported above and information reported in Part B and has determined that they meet the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340.

Signature _____

Date _____

Printed name of signing official _____

PART B—DATA COLLECTED AT OBSERVATION SITES

Site ID	Site type ¹	Date observed	Sample weight	Number of drivers	Number of front Passengers	Number of occupants ² belted	Number of occupants unbelted	Number of occupants with unknown belt use
Total								

Standard Error of Statewide Belt Use Rate³ _____

Nonresponse Rate, as provided in §1340.9(f)
Nonresponse rate for the survey variable seat belt use: _____

¹Identify if the observation site is an original observation site or an alternate observation site.

²Occupants refer to both drivers and passengers.

³The standard error may not exceed 2.5 percent.

PARTS 1345–1399 [RESERVED]