

§ 924.15

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Highway Safety Act of 1973, as amended, these funds may also be used to evaluate the improvements.

§924.15 Reporting.

(a) Each State shall submit to the FHWA Division Administrator no later than August 31 of each year a report (OMB Number 04-R2450) covering the State's highway safety improvement program during the previous July 1 through June 30 period. In its annual

report, the State shall report on the progress made in implementing the hazard elimination program and the grade crossing improvement program, and shall evaluate the effectiveness of completed highway safety improvement projects in these programs.

(b) The preparation of the State's annual report may be financed with funds made available through 23 U.S.C. 402, 307(c), and, where applicable, 104(f).

CHAPTER II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

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SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

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AUTHORITY: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

SOURCE: 58 FR 41033, Aug. 2, 1993, unless otherwise noted.

Subpart A—General

§ 1200.1 Purpose.

This part establishes the requirements governing submission and approval of State Highway Safety Plans and prescribes uniform procedures for the implementation and management of State highway safety programs.

§ 1200.2 Applicability.

The provisions of this part apply to States conducting highway safety programs in accordance with 23 U.S.C. 402,

beginning with Highway Safety Plans for Fiscal Year 1994.

§ 1200.3 Definitions.

As used in this subchapter—

Annual evaluation report means the report submitted each year by each State which describes the accomplishments of its highway safety program for the preceding fiscal year.

Approving official means a Regional Administrator of the National Highway Traffic Safety Administration for issues concerning NHTSA funds or program areas and a Division Administrator of the Federal Highway Administration for issues concerning FHWA funds or program areas.

Carry-forward funds means those funds which a State has obligated but not expended in the fiscal year in which they were apportioned, that are being reprogrammed.

Contract authority means the statutory language which authorizes the agencies to enter into an obligation without the need for a prior appropriation or further action from Congress. When exercised, contract authority creates a binding obligation on the United States for which Congress must make subsequent appropriations in order to liquidate the obligations incurred pursuant to this authority.

Contractor means the recipient of a contract or subcontract under the HSP.

FHWA means the Federal Highway Administration.

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

Governor means the Governor of any of the fifty States, Puerto Rico, the 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 Indians as provided in 23 U.S.C. 402(i), the Secretary of the Interior.

Governor's Representative means the Governor's Representative for Highway

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

Highway Safety Plan or *HSP* means the section 402 grant application document consisting of the plan submitted by a State describing the State's highway safety problems, identifying countermeasures, and detailing the projects the State plans to undertake which implement those countermeasures.

Highway safety program includes all of the projects planned or undertaken by a State or its subgrantees or contractors to address highway safety problems in the State.

Major equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, or such other definition as a State may elect in accordance with the procedures in §1200.21(c)(1) of this part.

National Priority Program Area means a program area identified in §1205.3 of this chapter as eligible for Federal funding pursuant to 23 U.S.C. 402 because it encompasses a major highway safety problem which is of national concern and for which effective countermeasures have been identified.

NHTSA means the National Highway Traffic Safety Administration.

Non-major equipment means all tangible, personal property which does not meet the definition of major equipment, including supplies.

Program area means any area, including but not limited to a National Priority Program Area, which is eligible or approved for Federal funding pursuant to 23 U.S.C. 402.

Program income means gross income received by the State or any of its subgrantees or contractors which is directly or indirectly generated by a Federally-supported project during the project performance period.

Project means any of the activities proposed or implemented under an HSP to address discrete or localized highway safety problems falling within one or more program areas.

Project agreement means the written agreement between a State and a subgrantee or contractor under which the State agrees to provide section 402 funds in exchange for the subgrantee's or contractor's performance of one or more projects supporting the section 402 program.

Reprogramming means applying carry-forward funds to projects in a fiscal year subsequent to the one for which the funds were originally apportioned to the State.

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

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

Subgrantee means a recipient of an award of financial assistance by a State in the form of money, or equipment in lieu of money, under an HSP.

Subpart B—The Highway Safety Plan

§ 1200.10 Preparation and submission.

(a) *Time period covered by the HSP.* (1) Except as provided in paragraph (a)(2) of this section, a State shall submit an HSP for each fiscal year. The time period for which the State shall identify activities to address highway safety problems under each such HSP shall be one fiscal year, unless extended in accordance with the provisions of § 1200.31 of this part.

(2) A State may elect to submit an HSP once every three fiscal years, provided advance notice is given to the approving officials. (States are encouraged to provide notice of at least 90 days.) The time period for which the State shall identify activities to address highway safety problems under each such HSP shall be three consecutive fiscal years, unless extended in accordance with the provisions of § 1200.31 of this part. Obligation of Federal funds and authority to incur costs, however, shall be based on each fiscal year. A State submitting a three-year HSP shall, nevertheless, submit the

trend data required by paragraph (b)(2) of this section on August 1 of each year.

(b) *Content of the HSP.* Each State's HSP shall contain the following elements: (1) *Certifications and assurances.* A statement containing certifications and assurances shall be signed by the Governor's Representative and shall satisfy the requirements of 49 CFR part 18 and other applicable law. A sample statement, which may from time to time be amended to reflect changes in applicable law, shall be made available by each approving official.

(2) *Problem identification summary.* The problem identification summary will highlight highway safety problems throughout the State and briefly describe the countermeasures the State will employ to address these problems. It shall be supported by statistical evidence of recent trends in fatal, injury, and property damage crashes.

(3) *Description of and justification for program areas to be funded.* A State may identify and seek funding for projects, and related equipment purchases, within any National Priority Program Area or any other program area. National Priority Program Areas are identified in §1205.3 of this chapter. Other program areas may, from time to time, be identified by statute, by rule, or by a State. For each program area for which Federal funding is sought, the following procedures shall apply:

(i) For National Priority Program Areas, the funding procedures at §1205.4 of this chapter.

(ii) For program areas identified by statute, the funding procedures prescribed by the statute and implementing regulations or, in the absence of prescribed procedures, the funding procedures at §1205.4 of this chapter.

(iii) For program areas identified by a State and not falling within paragraphs (b)(3)(i) or (b)(3)(ii) of this section, the funding procedures at §1205.5 of this chapter.

(4) *Discussion of planning and administration needs.* Planning and administration needs shall be discussed in sufficient detail to justify proposed expenditures. Proposed and actual expenditures shall comply with the Federal contribution and State matching requirements of part 1252 of this chapter.

(5) *Description of training needs.* Training needed to support or further the objectives of the HSP should be described in adequate detail to justify proposed expenditures. Only training that supports or furthers the objectives of the HSP shall be eligible for funding.

(6) *Supporting financial documentation.* Financial documentation to be submitted with the HSP shall include the Highway Safety Program Cost Summary (HS Form 217) reflecting the State's proposed allocation of funds (including estimated carry-forward funds) among program areas and for planning and administration needs, completed in accordance with the form's written instructions, and such other financial documentation as may be required by law. A State electing to submit a three-year HSP shall include with the HSP, one completed HS Form 217 for each of the fiscal years covered by the three-year HSP.

(c) *Special funding conditions.* The planning and contents of an HSP shall reflect the following funding requirements:

(1) *Political subdivision participation.* Proposed expenditures under the HSP shall comply with the requirements for political subdivision participation contained in part 1250 of this chapter.

(2) *NHTSA project length.* NHTSA funding support under the section 402 program for a specific project under an HSP shall ordinarily not exceed three years. However, a funding extension beyond three years may be approved in writing by the NHTSA approving official on a year-by-year basis, provided the project has demonstrated great merit or the potential for significant long-range benefits and includes a cost assumption plan requiring, at a minimum, 35 percent non-Federal support for the fourth year and 50 percent non-Federal support for each year thereafter. A denial of a project funding extension shall be in writing by the NHTSA approving official and shall be subject to the appeal procedures of §1200.25 of this part. The project length requirements are not applicable to planning and administration activities; program management (e.g., program area coordinators' or managers' oversight of the continuing development, implementation and evaluation of 402

or related State/locally supported activities); mandatory (earmarked) programs; training projects which support activities within an identified program area; or other activities which are required by Federal statute.

(d) *Due date.* The completed HSP must be received by the approving officials no later than August 1 preceding the fiscal year to which it applies or, in the case of a 3-year HSP, no later than August 1 preceding the first year to which it applies. For a State operating under a 3-year HSP, the trend data identified in §1200.10(a)(2) and (b)(2) must be received by the approving officials on a yearly basis on August 1, and any other HSP updates for the second and third years which the State elects to submit must be received by the approving officials no later than August 1 preceding the fiscal year for which the updates apply. The State shall furnish three copies of its HSP (or trend data or HSP update, as appropriate) to each of its NHTSA and FHWA approving officials. Failure to meet these deadlines may result in delayed approvals.

(Approved by the Office of Management and Budget under control number 2127-0003)

§ 1200.11 Review and approval.

(a) *Review.* (1) Each approving official shall verify that each HSP complies with the basic requirements of §1200.10 (b) and (c) of this part. Where an HSP is found not in compliance, the approving official will advise the State to take such action as is necessary to bring the HSP into compliance.

(2) An HSP determined to satisfy the basic requirements of §1200.10 (b) and (c) of this part shall be further reviewed to ensure that the State has proposed a highway safety program which justifies the commitment of Federal funds. Each approving official shall have the discretion to require further clarification or amendment of any portion of an HSP which does not adequately establish the existence of a bona fide highway safety problem, the selection of countermeasures and projects reasonably calculated to address the problem, and the efficient proposed use of Federal funds.

(3) Each approving official shall provide States with reasonable notice and opportunity to amend portions of HSPs

which are found inadequate. Such notice and opportunity to amend shall facilitate the informal resolution of problems in the HSP, to the maximum extent practicable, before the time by which the approving official must render a written decision under paragraph (b)(2) of this section.

(b) *Approval/conditional approval/disapproval.* (1) If after reasonable notice and opportunity to amend pursuant to paragraph (a)(3) of this section, the approving official determines that a State has provided information in the HSP which is inadequate to justify a proposed use of Federal funds, or has failed to comply with other requirements of this part or applicable law, the approving official shall conditionally approve or disapprove the relevant portion(s) of the HSP, as appropriate. Otherwise, the approving official shall approve the HSP, except that in no case shall the approving official approve an HSP which is submitted without the statement required by §1200.10(b)(1) of this part until receipt of such statement.

(2) Approval, conditional approval, or disapproval of the HSP, in whole or in part, shall be in writing, dated, and signed by the approving official(s), and shall be sent to the Governor, with a copy to the Governor's Representative, within 30 days after receipt of the HSP by the agency, unless extended by mutual agreement of the approving official(s) and the Governor's Representative.

(3) For any portion of the HSP which is conditionally approved or disapproved, a detailed explanation of conditions or reasons for disapproval shall be provided in writing by the approving official to the Governor's Representative. Conditional approval may include a requirement for project by project approval of federally funded activities.

(4) All approvals and conditional approvals sent to the Governor's Representative shall state the total Federal dollar amount of the program approved or conditionally approved and shall contain the following statement:

By this letter, (STATE)'s _____ fiscal year 19__ Highway Safety Plan, as submitted on (DATE) _____, is hereby

approved, subject to any conditions or limitations set forth below. This approval does not constitute an obligation of Federal funds for the fiscal year identified above or an authorization to incur costs against those funds. The obligation of section 402 program funds against the approved HSP will be effected in writing by the NHTSA/FHWA Administrator, as appropriate, at the commencement of the fiscal year identified above. However, Federal funds reprogrammed from a prior-year HSP will be available for immediate use by the State under the approved HSP on October 1. Reimbursement will be contingent upon the submission of an updated HS Form 217, consistent with the requirements of 23 CFR 1200.12(d), within 30 days after either the beginning of the fiscal year identified above or the date of this letter, whichever is later.

§ 1200.12 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year covered by an HSP, the NHTSA/FHWA Administrator, as appropriate, shall, in writing, distribute funds available for obligation under section 402 to the States and provide a statement of 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 covered by an HSP, the NHTSA/FHWA Administrator, as appropriate, shall, in writing, distribute a part of the funds authorized under section 402 contract authority to ensure program continuity and shall provide a statement of any conditions or limitations imposed by law on the use of the funds. Upon appropriation of section 402 funds, the NHTSA/FHWA Administrator, as appropriate, shall, in writing, promptly adjust the apportionment, in accordance with law.

(c) The 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 an approved HSP, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing document or in the written explanation of conditions required under § 1200.11(b)(3) of this part, and not exceeding the total dollar

amount of the approved or conditionally approved program identified in § 1200.11(b)(4) of this part.

(d)(1) Notwithstanding the provisions of paragraph (c) of this section, reimbursement of State expenses shall be contingent upon the submission of an updated HS Form 217, within 30 days after either the beginning of the fiscal year or the date of the written approval required under § 1200.11(b) of this part, whichever is later. A State submitting a three-year HSP shall, nevertheless, submit the updated HS Form 217 on a yearly basis.

(2) The updated HS Form 217 required under paragraph (d)(1) of this section shall reflect the State's allocation of section 402 funds made available for expenditure during the fiscal year, including known carry-forward funds, except that—

(i) The total of the Federal funds reflected on the form shall not exceed the total Federal dollar amount of the approved program identified in § 1200.11(b)(4) of this part; and

(ii) None of the federally funded amounts identified under any of the program areas on the form shall exceed the federally funded amounts identified under the same program areas on the HS Form 217 submitted under § 1200.10(b)(6) of this part.

(3) An updated HS Form 217 not meeting the requirements of paragraph (d)(2)(i) or (d)(2)(ii) of this section shall be accompanied by such information as is necessary to explain the deviation and shall require approval, in writing, by the approving officials.

§ 1200.13 Changes.

(a) *Changes requiring prior approval.* Each State shall obtain the written approval of the approving official prior to implementing or allowing subgrantees or contractors to implement any of the following changes:

(1) Any revision which would result in the need for additional Federal funding beyond that which is already obligated or approved for reprogramming under the current HSP;

(2) Any extension of the period during which costs may be incurred under an HSP, as provided in § 1200.31 of this part;

(3) Any extension of the length of a NHTSA project beyond three years, as provided in § 1200.10(c)(2) of this part;

(4) Any movement of funds into or out of a program area which, either singly or netted with all past movements of funds, exceeds ten percent of the Federal funding for the program area (e.g., 8% in+3% out+7% in=12% net fund movement), provided that—

(i) For the duration of the HSP, the ten percent threshold for each program area shall be based on the total federally funded program amounts identified on the updated HS Form 217 required under § 1200.12(d) of this part, without regard to amounts contained on any later submitted or approved HS Form 217; and

(ii) Once the ten percent threshold is exceeded with respect to a given program area, all fund movements made thereafter with respect to that program area require prior approval; or

(5) Any change in the scope or objectives of a project (regardless of whether there is an associated fund movement requiring prior approval).

(b) *Approval procedures.* (1) States shall request prior approval for changes by submitting a written request to the approving official, accompanied by HS Form 217 and such other information as is necessary to explain the proposed change.

(2) The approving official shall indicate approval in writing to the Governor's representative, normally within 10 working days after receipt of the request.

(3) Subject to the appeal provisions of § 1200.25 of this part, the approving official may disapprove a change in writing, with a brief explanation of the reasons therefor. Any such disapproval shall normally be made within 10 working days after receipt of the request.

(c) *Procedures for changes not requiring prior approval.* States shall provide documentary evidence of changes not requiring prior approval to the approving official by submitting an amended HS Form 217 and such other information as is necessary to explain the change.

Subpart C—Implementation and Management of the Highway Safety Program

§ 1200.20 General.

Except as otherwise provided in this subpart and subject to the provisions herein, the requirements of 49 CFR part 18 and applicable cost principles govern the implementation and management of State highway safety programs carried out under 23 U.S.C. 402. Cost principles include those referenced in 49 CFR 18.22 and those set forth in applicable Department of Transportation, NHTSA, or FHWA Orders.

§ 1200.21 Equipment.

(a) *All equipment.* (1) *Title.* Except as provided in paragraphs (a)(3) and (b)(1) of this section, title to equipment acquired under the HSP will vest upon acquisition in the State or its subgrantee, as appropriate.

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

(3) *Right to transfer title.* The NHTSA or the FHWA may reserve the right to transfer title to equipment acquired under the HSP to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes. Any such transfer shall be subject to the following requirements:

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

(ii) The NHTSA or the FHWA, as applicable, shall issue disposition instructions within 120 calendar days after the end of the project for which the property was acquired, in the absence of which the State shall follow the applicable procedures in 49 CFR part 18.

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

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

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

(3) The State or its subgrantee shall request disposition instructions from NHTSA or FHWA, as appropriate, when the item is no longer needed in the program.

(c) *Major equipment.* (1) *Choice of definition.* A State may elect to use its own definition of major equipment, provided such definition would at least include all items captured by the definition appearing in §1200.3 of this part. Such election shall be made in writing by the Governor's Representative to the approving official, in the absence of which the definition in §1200.3 of this part shall apply.

(2) *Management and disposition.* Subject to the requirements of paragraphs (a)(2), (b)(2), and (b)(3) of this section, States and their subgrantees and contractors shall manage and dispose of major equipment acquired under the HSP in accordance with State laws and procedures.

(d) *Non-major equipment.* Subject to the requirements of paragraphs (a)(2), (b)(2), and (b)(3) of this section and except as otherwise provided in 49 CFR 18.33, States and their subgrantees and contractors shall manage and dispose of non-major equipment acquired under the HSP in accordance with State laws and procedures.

§ 1200.22 Vouchers and project agreements.

Each State shall submit to the approving official vouchers for total expenses incurred, regardless of whether the State receives advance payments or is reimbursed for expenditures under the HSP. Copies of the project agreement(s) and supporting documentation for the vouchers, and any amendments thereto, shall be made available for review by the approving official upon request.

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

- (1) Program Area/Project Number;
- (2) Federal funds obligated;

(3) Amount of Federal funds allocated to local benefit (provided mid-year (by March 31) and with the final voucher);

(4) Cumulative Total Cost to Date;

(5) Cumulative Federal Funds Expended;

(6) Previous Amount Claimed;

(7) Amount Claimed this Period;

(8) Special matching rate (i.e., sliding scale rate) authorized under 23 U.S.C. 120(a), if used, determined in accordance with the applicable NHTSA Order.

(b) *Submission requirements.* At a minimum, vouchers shall be submitted to the approving official on a quarterly basis, no later than 15 working days after the end of each quarter, except that where a state receives funds by electronic transfer at an annualized rate of one million dollars or more, vouchers shall be submitted on a monthly basis, no later than 15 working days after the end of each month. Failure to meet these deadlines may result in delayed reimbursement.

§ 1200.23 Program income.

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

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

(c) *Use of program income.* (1) *Addition.* Program income shall ordinarily be added to the funds committed to the HSP. Such program income shall be used to further the objectives of the project under which it was generated.

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

§ 1200.24 Compliance.

Where a State is found to be in non-compliance with the terms of the HSP or applicable law, the approving official may apply the special conditions for high-risk grantees or the enforcement procedures of 49 CFR part 18, as appropriate and in accordance with their terms.

§ 1200.25 Appeals.

Review of any written decision by an approving official under this part, including a denial of a funding extension under § 1200.10(c)(2) of this part, a disapproval or conditional approval of any part of an HSP under § 1200.11(b) of this part, a disapproval of a request for a change under § 1200.13(b)(3) of this part, and a decision to impose special conditions or restrictions or to seek remedies under § 1200.24 of this part, may be obtained by submitting a written appeal of such decision, signed by the Governor's Representative, to the approving official. Such appeal shall be forwarded promptly to the NHTSA Associate Administrator for Regional Operations or the FHWA Regional Administrator with jurisdiction over the specific division, as appropriate. The decision of the NHTSA Associate Administrator or the FHWA Regional Administrator shall be final and shall be transmitted to the Governor's Representative through the cognizant approving official.

Subpart D—Closeout**§ 1200.30 Expiration of the HSP.**

Unless extended in accordance with the provisions of § 1200.31 of this part, a one-year HSP shall expire on the last day of the fiscal year to which it pertains and a three-year HSP shall expire on the last day of the third fiscal year to which it pertains. The State and its subgrantees and contractors may not incur costs past the expiration date.

§ 1200.31 Extension of the HSP.

Upon written request by the State, specifying the reasons therefor, the approving official may extend the expiration date for some portion of an HSP by a maximum of 90 days. The approval of any such request for extension shall

be in writing, shall specify the new expiration date, and shall be signed by the approving official. If an extension is granted, the State and its subgrantees and contractors may continue to incur costs under the HSP until the new expiration date, and the due dates for other submissions covered by this subpart shall be based upon the new expiration date. However, in no case shall any extension be deemed to authorize the obligation of additional Federal funds beyond those already obligated to the State by the Federal Government, nor shall any extension be deemed to extend the due date for submission of the annual evaluation report. Only one extension shall be allowed for each HSP.

§ 1200.32 Final voucher.

Each State shall submit a final voucher which satisfies the requirements of § 1200.22(a) of this part within 90 days after the expiration of each fiscal year, unless extended in accordance with the provisions of § 1200.31 of this part. The final voucher constitutes the final financial reconciliation for each one-year HSP or for each year of a three-year HSP.

§ 1200.33 Annual evaluation report.

Within 90 days after the expiration of the fiscal year, each State, whether operating under a one-year or a three-year HSP, shall submit to the approving official an annual evaluation report describing the accomplishments of the highway safety program under the HSP for that fiscal year. The report shall include the following information:

(a) *Statewide overview.* A three to five page overview of statewide accomplishments in highway safety, regardless of funding source;

(b) *Report by program area.* For each funded program area, a description of individual projects conducted thereunder, detailing costs and accomplishments (and status if a project has not been completed), identifying progress toward self-sustainment and contributions of independent groups, and including an accounting for any program income earned or used under the project;

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(c) *Legislative and administrative accomplishments.* A discussion of significant legislative and administrative accomplishments which promoted the goals of highway safety; and

(d) *Status of remedial actions.* An evaluation of the progress the State is making in correcting deficiencies identified through program and financial management reviews conducted by the approving officials or by the State.

§ 1200.34 Disposition of unexpended balances.

Any funds which remain unexpended after reconciliation of the final voucher shall be carried forward, credited to the State's highway safety account for the new fiscal year, and made immediately available for reprogramming under a new HSP or under the next year of a continuing three-year HSP, subject to the approval requirements of § 1200.11(b) of this part. Carry-forward funds must be identified by the program area from which they are removed when they are reprogrammed from the previous fiscal year. Once so identified, such funds are available for

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use without regard to the program area from which they were carried forward, unless specially earmarked by the Congress.

§ 1200.35 Post-grant adjustments.

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

§ 1200.36 Continuing requirements.

The following provisions shall have continuing applicability, notwithstanding the closeout of an HSP:

(a) The requirement to use all equipment for the originally authorized grant purposes for as long as needed for those purposes, as provided in § 1200.21(a)(2) of this part;

(b) The management and disposition requirements for equipment, as provided in § 1200.21 of this part;

(c) The audit requirements and records retention and access requirements of 49 CFR part 18.

SUBCHAPTER B—GUIDELINES

PART 1204—[RESERVED]

PART 1205—HIGHWAY SAFETY PROGRAMS; DETERMINATIONS OF EFFECTIVENESS

Sec.

1205.1 Scope.

1205.2 Purpose.

1205.3 Identification of National Priority Program Areas.

1205.4 Funding procedures for National Priority Program Areas.

1205.5 Funding procedures for other program areas.

AUTHORITY: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

SOURCE: 47 FR 15120, Apr. 8, 1982, unless otherwise noted.

§ 1205.1 Scope.

This part identifies those highway safety programs that are eligible for Federal funding under the State and Community Highway Safety Grant Program (23 U.S.C. 402) and specifies the Federal funding requirements for those programs.

§ 1205.2 Purpose.

The purpose of this part is to establish national highway safety priorities and establish program areas within which highway safety programs developed by the states would be eligible to receive Federal funding.

§ 1205.3 Identification of National Priority Program Areas.

(a) Under statutory provisions administered by NHTSA, the following NHTSA-administered highway safety program areas have been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. Programs developed in such areas are eligible for Federal funding, pursuant to guidelines issued by the National Highway Traffic Safety Administration and the review procedure set forth in § 1205.4:

(1) Alcohol and Other Drug Countermeasures

(2) Police Traffic Services

(3) Occupant Protection

(4) Traffic Records

(5) Emergency Medical Services

(6) Motorcycle Safety

(b) Under statutory provisions administered by FHWA, the following FHWA-administered highway safety program area has been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. The program developed in this area is eligible for Federal funding, pursuant to provisions of 23 U.S.C. 402(g), guidelines issued by the Federal Highway Administration and the review procedures set forth in § 1205.4: *Roadway Safety*.

(c) Under statutory provisions jointly administered by NHTSA and FHWA, the following highway safety program areas, jointly administered by NHTSA and FHWA, have been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. Programs developed in such areas are eligible for Federal funding, pursuant to guidelines issued by NHTSA and FHWA and the review procedures set forth in § 1205.4:

(1) Pedestrian and Bicycle Safety

(2) Speed Control

[47 FR 15120, Apr. 8, 1982, as amended at 53 FR 11270, Apr. 6, 1988; 56 FR 50255, Oct. 4, 1991; 59 FR 64127, Dec. 13, 1994]

§ 1205.4 Funding procedures for National Priority Program Areas.

A State planning to use funds under 23 U.S.C. 402 to support a program that is within a National Highway Safety Priority Program Area shall be subject to the following procedures:

(a) The State shall describe each highway safety problem within such Priority Area and any countermeasure proposed to decrease or stabilize the problem, and provide recent statistical trend data concerning injury, fatal, and property damage crashes to support the problem and countermeasure identifications.

(b) The State shall list the specific projects proposed to implement such countermeasures and the criteria for project selection.

(c) The NHTSA and/or the FHWA, as applicable, shall review the information provided under paragraphs (a) and (b) of this section in accordance with the procedures of §1200.11 of this chapter.

[47 FR 15120, Apr. 8, 1982, as amended at 58 FR 41038, Aug. 2, 1993]

§1205.5 Funding procedures for other program areas.

If a State intends to use funds under 23 U.S.C. 402 to support a project that is not within a National Highway Safety Priority Program Area, the State shall describe the project in its annual Highway Safety Plan, and shall, at its option, select one or both of the following procedures:

(a) *Formal decisionmaking.* Under this procedure, the State shall first develop and submit as part of its annual Highway Safety Plan or by a separate submission a formal administrative decisionmaking process for identifying highway safety problems and corresponding countermeasures. Upon approval of the Plan and adoption by the State of the process involved, a State may thereafter certify in subsequent Plan submissions that it has developed each proposed project in accordance with the described process. NHTSA or FHWA shall on such subsequent submissions consider the findings and determinations made by the State pursuant to such process to be determinative and shall review proposed projects only pursuant to the limited review criteria applicable to the projects subject to §1205.4. NHTSA and/or FHWA, as applicable, shall review and approve proposed State administrative processes pursuant to the following general criteria:

(1) Use of State data on traffic accidents to determine the magnitude and severity of the highway safety problems by geographic area and target group.

(2) Determination of related system deficiencies and driver behavior deficiencies that can be stabilized or remedied by countermeasure approaches.

(3) Development of countermeasures to remedy the problems. Priorities should be assigned based on the following considerations:

- (i) Estimates of the impact on accidents and injuries;
- (ii) Cost effectiveness;
- (iii) Past program and project results;
- (iv) Innovative approaches;
- (v) Comprehensiveness of programs;
- (vi) Catalytic and leverage effects; and

(vii) Prospects for activities to be self-supporting or continued with State/local resources after Federal funds are discontinued.

(4) Development of projects from the countermeasure approaches that ensure consultation with affected groups and participation by the public. This shall be accomplished by conducting public meetings to identify traffic safety problems and to recommend alternate countermeasure solutions.

(5) Development of administrative and impact evaluations for the projects, as appropriate.

(b) *Problem identification.* Under this procedure, the State shall submit information on individual proposed projects. NHTSA or FHWA, as applicable, shall approve each project if it addresses the identified problem in a manner reasonably calculated to decrease or stabilize the problems. The State shall submit, at a minimum, the following information:

(1) The State and local data on traffic accidents used to determine the magnitude and severity of the particular highway safety problem by geographic area and target group.

(2) The impact each project is estimated to have on traffic accidents and injuries.

(3) Estimates of the resources necessary to carry out planned activities and projects.

(4) The relation of each project to a comprehensive, balanced program.

(5) The improvements in program operational efficiency and/or cost effectiveness which are expected as a result of the implementation of each project.

(6) The commitment of State and/or local resources to each project.

(7) The prospects for activities to be self-supporting or continued with

State/local resources after Federal funds are discontinued.

(8) The criteria to be used to conduct administrative and impact evaluations of products, as appropriate.

PART 1206—RULES OF PROCEDURE FOR INVOKING SANCTIONS UNDER THE HIGHWAY SAFETY ACT OF 1966

Sec.

- 1206.1 Scope.
- 1206.2 Purpose.
- 1206.3 Definitions.
- 1206.4 Sanctions.
- 1206.5 Review process.

AUTHORITY: 23 U.S.C. 402; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 61 FR 28747, June 6, 1996, unless otherwise noted.

§ 1206.1 Scope.

This part establishes procedures governing determinations to invoke the sanctions applicable to any State that does not comply with the highway safety program requirements in the Highway Safety Act of 1966, as amended (23 U.S.C. 402).

§ 1206.2 Purpose.

The purpose of this part is to prescribe procedures for determining whether and the extent to which the 23 U.S.C. 402 sanctions should be invoked, and to ensure that, should sanctions be proposed to be invoked against a State, the State has a full and fair opportunity to be heard on the issues involved.

§ 1206.3 Definitions.

As used in this part:

(a) *Administrators* means the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration.

(b) *Highway safety program* means an approved program in accordance with 23 U.S.C. 402, which is designed by a State to reduce traffic accidents, and death, injuries and property damage resulting therefrom.

(c) *Implementing* means both having and putting into effect an approved highway safety program.

§ 1206.4 Sanctions.

(a) The Administrators shall not apportion any funds under 23 U.S.C. 402 to any State which is not implementing a highway safety program.

(b) If the Administrators have apportioned funds to a State and subsequently determine that the State is not implementing a highway safety program, the Administrators shall reduce the funds apportioned under 23 U.S.C. 402 to the State by amounts equal to not less than 50 per centum, until such time as the Administrators determine that the State is implementing a highway safety program.

(c) The Administrators shall consider the gravity of the State's failure to implement a highway safety program in determining the amount of the reduction.

(d) If the Administrators determine that a State has begun implementing a highway safety program before the end of the fiscal year for which the funds were withheld, they shall promptly apportion to the State the funds withheld from its apportionment.

(e) If the Administrators determine that the State did not correct its failure before the end of the fiscal year for which the funds were withheld, the Administrators 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 30 days after such determination.

§ 1206.5 Review process.

(a) In any fiscal year, if the Administrators determine, based on a preliminary review, that a State is not implementing a highway safety program in accordance with 23 U.S.C. 402, the Administrators shall issue jointly to the State an advance notice, advising the State that the Administrators expect to either withhold funds from apportionment under 23 U.S.C. 402, or reduce the State's apportioned funds under 23 U.S.C. 402. The Administrators shall state the amount of the expected withholding or reduction. The advance notice will normally be sent not later than ninety days prior to final apportionment.

(b) If the Administrators issue an advance notice to a State, based on a preliminary review, the State may, within

30 days of its receipt of the advance notice, submit documentation demonstrating that it is implementing a highway safety program. Documentation shall be submitted to the Administrator for NHTSA, 400 Seventh Street SW, Washington, D.C. 20590.

(c) If the Administrators decide, after reviewing all relevant information, that a State is not implementing a highway safety program in accordance with 23 U.S.C. 402, they shall issue a final notice, advising the State either of the funds being withheld from apportionment under 23 U.S.C. 402, or of the apportioned funds being reduced under 23 U.S.C. 402 and the amount of the withholding or reduction. The final notice of a withholding will normally be issued on October 1. The final notice of a reduction will be issued at the time of a final decision.

PART 1208—NATIONAL MINIMUM DRINKING AGE

- Sec.
- 1208.1 Scope.
- 1208.2 Purpose.
- 1208.3 Definitions.
- 1208.4 Adoption of National Minimum Drinking Age.
- 1208.5 Unavailability of withheld funds.
- 1208.6 Procedures affecting States in non-compliance.

AUTHORITY: 23 U.S.C. 158; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 51 FR 10380, Mar. 26, 1986, unless otherwise noted.

§ 1208.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. 158, which establishes the National Minimum Drinking Age.

§ 1208.2 Purpose.

The purpose of this part is to clarify the provisions which a State must have incorporated into its laws in order to prevent the withholding of Federal-aid highway funds for noncompliance with the National Minimum Drinking Age.

§ 1208.3 Definitions.

As used in this part:

Alcoholic beverage means beer, distilled spirits and wine containing one-half of one percent or more of alcohol

by volume. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part or from any substitute therefor. Distilled spirits include alcohol, ethanol or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

Public possession means the possession of any alcoholic beverage for any reason, including consumption on any street or highway or in any public place or in any place open to the public (including a club which is *de facto* open to the public). The term does not apply to the possession of alcohol for an established religious purpose; when accompanied by a parent, spouse or legal guardian age 21 or older; for medical purposes when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital or medical institution; in private clubs or establishments; or to the sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful employment of a person under the age of twenty-one years by a duly licensed manufacturer, wholesaler, or retailer of alcoholic beverages.

Purchase means to acquire by the payment of money or other consideration.

§ 1208.4 Adoption of National Minimum Drinking Age.

The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of §§ 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 U.S.C. on the first day of each fiscal year in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

[60 FR 66076, Dec. 21, 1995]

§ 1208.5 Unavailability of withheld funds.

Funds withheld under § 1208.4 from apportionment to any State will not be available for apportionment to the State.

[60 FR 66076, Dec. 21, 1995]

§ 1208.6 Procedures affecting States in noncompliance.

(a) Every fiscal year, each State determined to be in noncompliance with the National Minimum Drinking Age, based on NHTSA's and FHWA's preliminary review of its statutes for compliance or non-compliance, will be advised of the funds expected to be withheld under § 1208.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is in noncompliance with the National Minimum Drinking Age based on their preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590.

(c) Every fiscal year, each State determined to be in noncompliance with the National Minimum Drinking Age, based on NHTSA's and FHWA's final determination of compliance or non-compliance, will receive notice of the funds being withheld under § 1208.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

[53 FR 31322, Aug. 18, 1988. Redesignated at 60 FR 66076, Dec. 21, 1995]

**PART 1210—OPERATION OF
MOTOR VEHICLES BY INTOXICATED MINORS**

Sec.

- 1210.1 Scope.
- 1210.2 Purpose.
- 1210.3 Definitions.
- 1210.4 Adoption of zero tolerance law.
- 1210.5 Certification requirements.
- 1210.6 Period of availability of withheld funds.
- 1210.7 Apportionment of withheld funds after compliance.
- 1210.8 Period of availability of subsequently apportioned funds.
- 1210.9 Effect of noncompliance.
- 1210.10 Procedures affecting states in non-compliance.

AUTHORITY: 23 U.S.C. 161; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 61 FR 55217, Oct. 25, 1996, unless otherwise noted.

§ 1210.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. 161, which encourages States to enact and enforce zero tolerance laws.

§ 1210.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the withholding of Federal-aid highway funds for noncompliance with 23 U.S.C. 161.

§ 1210.3 Definitions.

As used in this part:

(a) *Alcohol concentration* means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(b) *BAC* means either blood or breath alcohol concentration.

(c) *Operating a motor vehicle* means driving or being in actual physical control of a motor vehicle.

§ 1210.4 Adoption of zero tolerance law.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 1999 if the State does not meet the requirements of this part on that date.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 2000 and any subsequent fiscal year if the State does not meet the requirements of this part on that date.

(c) A State meets the requirements of this section if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a BAC of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol. The law must:

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- (1) Apply to all individuals under the age of 21;
- (2) Set a BAC of not higher than 0.02 percent as the legal limit;
- (3) Make operating a motor vehicle by an individual under age 21 above the legal limit a per se offense;
- (4) Provide for primary enforcement; and
- (5) Provide that license suspensions or revocations are authorized for any violation of the State zero tolerance law.

§ 1210.5 Certification requirements.

(a) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, to avoid the withholding of funds in any fiscal year, beginning with FY 1999, the State shall certify to the Secretary of Transportation, before the last day of the previous fiscal year, that it meets the requirements of 23 U.S.C. 161, and this part.

(b) The certification shall contain:

(1) A copy of the State zero tolerance law, regulation, or binding policy directive implementing or interpreting such law or regulation, that conforms to 23 U.S.C. 161 and § 1210.4(c); and

(2) A statement by an appropriate State official, that the State has enacted and is enforcing a conforming zero tolerance law. The certifying statement shall be worded as follows:

I, (Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____, has enacted and is enforcing a zero tolerance law that conforms to the requirements of 23 U.S.C. 161 and 23 CFR 1210.4(c).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications he or she receives to appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the

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State's zero tolerance legislation changes.

§ 1210.6 Period of availability of withheld funds.

(a) Funds withheld under § 1210.4 from apportionment to any State on or before September 30, 2000, will remain available for apportionment until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under § 1210.4 from apportionment to any State after September 30, 2000 will not be available for apportionment to the State.

§ 1210.7 Apportionment of withheld funds after compliance.

Funds withheld from a State from apportionment under § 1210.4, which remain available for apportionment under § 1210.6(a), will be made available to the State if it conforms to the requirements of §§ 1210.4 and 1210.5 before the last day of the period of availability as defined in § 1210.6(a).

§ 1210.8 Period of availability of subsequently apportioned funds.

Funds apportioned pursuant to § 1210.7 will remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are apportioned.

§ 1210.9 Effect of noncompliance.

If a State has not met the requirements of 23 U.S.C. 161 and this part at the end of the period for which funds withheld under § 1210.4 are available for apportionment to a State under § 1210.6, then such funds shall lapse.

§ 1210.10 Procedures affecting states in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 161 and this part, based on NHTSA's and FHWA's preliminary review of its law, will be advised of the funds expected to be withheld under § 1210.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance

with 23 U.S.C. 161 and this part, based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 161 and this part, based on NHTSA's and FHWA's final determination, will receive notice of the funds being withheld under §1210.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

PART 1215—USE OF SAFETY BELTS— COMPLIANCE AND TRANSFER- OF-FUNDS PROCEDURES

- Sec.
1215.1 Scope.
1215.2 Purpose.
1215.3 Definitions.
1215.4 Compliance criteria.
1215.5 Exemptions.
1215.6 Review and notification of compliance status.
1215.7 Transfer of funds.
1215.8 Use of transferred funds.

AUTHORITY: 23 U.S.C. 153; Secs. 205(e) and 355. Pub. L. 104-59; delegations of authority at 49 CFR 1.48 and 1.50.

SOURCE: 58 FR 44759, Aug. 25, 1993, unless otherwise noted.

§ 1215.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 153, as amended, and Section 355 of the National Highway System Designation Act of 1995, for determining compliance with the requirement that States not having safety belt use laws be subject to a transfer of Federal-aid highway apportionments under 23 U.S.C. 104 (b)(1), (b)(2), and (b)(3) to the highway safety program apportionment under 23 U.S.C. 402.

[61 FR 28749, June 6, 1996]

§ 1215.2 Purpose.

This part clarifies the provisions which a State must incorporate into

its safety belt law to prevent the transfer of a portion of its Federal-aid highway funds to the section 402 highway safety program apportionment, describes notification and transfer procedures, establishes parameters for the use of transferred funds, and provides alternate compliance criteria for New Hampshire and Maine.

[61 FR 28749, June 6, 1996]

§ 1215.3 Definitions.

As used in this part:

FHWA means the Federal Highway Administration.

Motor vehicle means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

NHTSA means the National Highway Traffic Safety Administration.

Passenger vehicle means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

Safety belt means, with respect to open-body passenger 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 passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

Secretary means the Secretary of Transportation.

[58 FR 44759, Aug. 25, 1993, as amended at 61 FR 28749, June 6, 1996]

§ 1215.4 Compliance criteria.

(a) Except as provided in paragraphs (c) or (d) of this section, in order to avoid the transfer or reservation (as applicable) specified in §1215.7, a State must have and continue in effect at all times during the fiscal year a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child

who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

(b) A State that enacts the law specified in paragraph (a) of this section will be determined to comply with 23 U.S.C. 153, provided that any exemptions are consistent with § 1215.5.

(c) If New Hampshire or Maine enacts a law described in paragraph (a) of this section by January 27, 1996, the State shall be deemed as having that law in effect on September 30, 1995.

(d)(1) If the Secretary certifies in a fiscal year that New Hampshire or Maine has achieved the safety belt use rate specified in paragraph (d)(2) of this section, the State shall be considered as complying with the provisions of paragraph (a) of this section.

(2) The safety belt use rate must be not less than 50 percent in each of fiscal years 1995 and 1996, and not less than the national average as determined by the Secretary in each fiscal year thereafter.

[61 FR 28749, June 6, 1996]

§ 1215.5 Exemptions.

(a) Safety belt use laws exempting persons with medical excuses, persons in emergency vehicles, persons in the custody of police, persons in public and livery conveyances, persons in parade vehicles, persons in positions not equipped with safety belts, and postal, utility and other commercial drivers who make frequent stops in the course of their business shall be deemed to comply with 23 U.S.C. 153.

(b) Safety belt use laws exempting vehicles equipped with air bags shall be deemed not to comply with 23 U.S.C. 153.

(c) An exemption not identified in paragraph (a) of this section shall be deemed to comply with 23 U.S.C. 153 only if NHTSA and FHWA determine that it is consistent with the intent of § 1215.4(a), and applies to situations in which the risk to occupants is very low or in which there are exigent justifications.

[61 FR 28749, June 6, 1996]

§ 1215.6 Review and notification of compliance status.

Review of each State's laws and notification of compliance status shall occur each fiscal year, in accordance with the following procedures:

(a) NHTSA and FHWA will review appropriate State laws for compliance with 23 U.S.C. 153. States initially found to be in non-compliance will be notified of such finding and of funds expected to be transferred or reserved (as applicable) under § 1215.7, through the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) A State notified of non-compliance under paragraph (a) of this section may, within 30 days after its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance to the Associate Administrator for State and Community Services, NHTSA, 400 Seventh Street, SW, Washington, D.C., 20950.

(c) Each fiscal year, States determined to be in non-compliance with 23 U.S.C. 153 will receive notice of the funds being transferred or reserved (as applicable) under § 1215.7, through the certification of apportionments required under 23 U.S.C. 104(e), normally on October 1.

[61 FR 28749, June 6, 1996]

§ 1215.7 Transfer of funds.

(a) Except as provided in paragraph (b) of this section, if at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in § 1215.4(a), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under 23 U.S.C. 104 (b)(1), (b)(2) and (b)(3) to the apportionment of the State under 23 U.S.C. 402.

(b) For New Hampshire or Maine, except as provided in § 1215.4(c), if at any time in a fiscal year beginning after September 30, 1994, the State does not have in effect a law described in § 1215.4(a), the Secretary shall reserve 3 percent of the funds to be apportioned to the State for the succeeding fiscal year under 23 U.S.C. 104 (b)(1), (b)(2)

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and (b)(3) if the Secretary has not certified, in accordance with §1215.4(d), that the State has achieved the applicable safety belt use rate.

(c) If, at the end of a fiscal year in which the funds are reserved for New Hampshire or Maine under paragraph (b) of this section, the Secretary has not certified that the State achieved the applicable safety belt use rate, the Secretary shall transfer the funds reserved from the State to the apportionment of the State under 23 U.S.C. 402.

(d) Any obligation limitation existing on transferred funds prior to the transfer will apply, proportionately, to those funds after transfer.

[61 FR 28749, June 6, 1996]

§ 1215.8 Use of transferred funds.

(a) Any funds transferred under §1215.7 may be used for approved projects in any section 402 program area.

(b) Any funds transferred under §1215.7 shall not be subject to Federal earmarking of any amounts or percentages for specific program activities.

(c) The Federal share of the cost of any project carried out under section 402 with the transferred funds shall be 100 percent.

(d) In the event of a transfer of funds under §1215.7, the 40 percent political subdivision participation in State highway safety programs and the 10 percent limitation on the Federal contribution for Planning and Administration activities carried out under section 402 shall be based upon the sum of the funds transferred and amounts otherwise available for expenditure under section 402.

PART 1235—UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES

Sec.

- 1235.1 Purpose.
- 1235.2 Definitions.
- 1235.3 Special license plates.
- 1235.4 Removable windshield placards.
- 1235.5 Temporary removable windshield placards.
- 1235.6 Parking.
- 1235.7 Parking space design, construction, and designation.
- 1235.8 Reciprocity.

APPENDIX A TO PART 1235—SAMPLE REMOVABLE WINDSHIELD PLACARD

APPENDIX B TO PART 1235—SAMPLE TEMPORARY REMOVABLE WINDSHIELD PLACARD

AUTHORITY: Pub. L. 100-641, 102 Stat. 3335 (1988); 23 U.S.C. 101(a), 104, 105, 109(d), 114(a), 135, 217, 307, 315, and 402(a); 23 CFR 1.32 and 1204.4; and 49 CFR 1.48(b).

SOURCE: 56 FR 10329, Mar. 11, 1991, unless otherwise noted.

§ 1235.1 Purpose.

The purpose of this part is to provide guidelines to States for the establishment of a uniform system for handicapped parking for persons with disabilities to enhance access and the safety of persons with disabilities which limit or impair the ability to walk.

§ 1235.2 Definitions.

Terms used in this part are defined as follows:

(a) *International Symbol of Access* means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

(b) *Persons with disabilities which limit or impair the ability to walk* means persons who, as determined by a licensed physician:

(1) Cannot walk two hundred feet without stopping to rest; or

(2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(3) Are restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(4) Use portable oxygen; or

(5) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(6) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(c) *Special license plate* means a license plate that displays the International Symbol of Access:

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(1) In a color that contrasts to the background, and

(2) In the same size as the letters and/or numbers on the plate.

(d) *Removable windshield placard* means a two-sided, hanger-style placard which includes on each side:

(1) The International Symbol of Access, which is at least three inches in height, centered on the placard, and is white on a blue shield;

(2) An identification number;

(3) A date of expiration; and

(4) The seal or other identification of the issuing authority.

(e) *Temporary removable windshield placard* means a two-sided, hanger-style placard which includes on each side:

(1) The International Symbol of Access, which is at least three inches in height, centered on the placard, and is white on a red shield;

(2) An identification number;

(3) A date of expiration; and

(4) The seal or other identification of the issuing authority.

§ 1235.3 Special license plates.

(a) Upon application of a person with a disability which limits or impairs the ability to walk, each State shall issue special license plates for the vehicle which is registered in the applicant's name. The initial application shall be accompanied by the certification of a licensed physician that the applicant meets the §1235.2(b) definition of persons with disabilities which limit or impair the ability to walk. The issuance of a special license plate shall not preclude the issuance of a removable windshield placard.

(b) Upon application of an organization, each State shall issue special license plates for the vehicle registered in the applicant's name if the vehicle is primarily used to transport persons with disabilities which limit or impair the ability to walk. The application shall include a certification by the applicant, under criteria to be determined by the State, that the vehicle is primarily used to transport persons with disabilities which limit or impair the ability to walk.

(c) The fee for the issuance of a special license plate shall not exceed the

fee charged for a similar license plate for the same class vehicle.

§ 1235.4 Removable windshield placards.

(a) The State system shall provide for the issuance and periodic renewal of a removable windshield placard, upon the application of a person with a disability which limits or impairs the ability to walk. The State system shall require that the issuing authority shall, upon request, issue one additional placard to applicants who do not have special license plates.

(b) The initial application shall be accompanied by the certification of a licensed physician that the applicant meets the §1235.2(b) definition of persons with disabilities which limit or impair the ability to walk.

(c) The State system shall require that the removable windshield placard is displayed in such a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities. When there is no rearview mirror, the placard shall be displayed on the dashboard.

§ 1235.5 Temporary removable windshield placards.

(a) The State system shall provide for the issuance of a temporary removable windshield placard, upon the application of a person with a disability which limits or impairs the ability to walk. The State system shall require that the issuing authority issue, upon request, one additional temporary removable windshield placard to applicants.

(b) The State system shall require that the application shall be accompanied by the certification of a licensed physician that the applicant meets the §1235.2(b) definition of persons with disabilities which limit or impair the ability to walk. The certification shall also include the period of time that the physician determines the applicant will have the disability, not to exceed six months.

(c) The State system shall require that the temporary removable windshield placard is displayed in such a

manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities. When there is no rearview mirror, the placard shall be displayed on the dashboard.

(d) The State system shall require that the temporary removable windshield placard shall be valid for a period of time for which the physician has determined that the applicant will have the disability, not to exceed six months from the date of issuance.

§ 1235.6 Parking.

Special license plates, removable windshield placards, or temporary removable windshield placards displaying the International Symbol of Access shall be the only recognized means of identifying vehicles permitted to utilize parking spaces reserved for persons with disabilities which limit or impair the ability to walk.

§ 1235.7 Parking space design, construction, and designation.

(a) Each State shall establish design, construction, and designation standards for parking spaces reserved for persons with disabilities, under criteria to be determined by the State. These standards shall:

(1) Ensure that parking spaces are accessible to, and usable by, persons with disabilities which limit or impair the ability to walk;

(2) Ensure the safety of persons with disabilities which limit or impair the ability to walk who use these spaces and their accompanying accessible routes; and

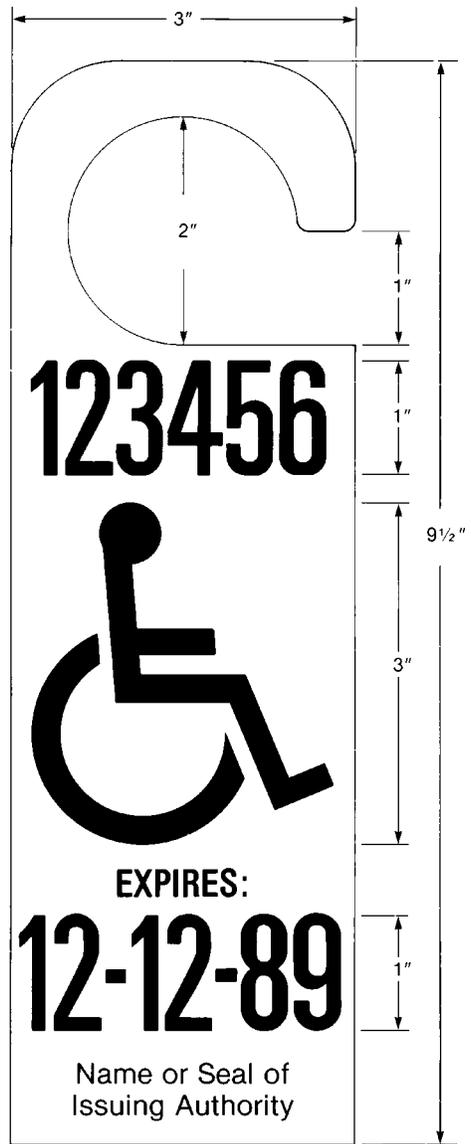
(3) Ensure uniform sign standards which comply with those prescribed by the "Manual on Uniform Traffic Control Devices for Streets and Highways" (23 CFR part 655, subpart F) to designate parking spaces reserved for persons with disabilities which limit or impair the ability to walk.

(b) The design, construction, and alteration of parking spaces reserved for persons with disabilities for which Federal funds participate must meet the Uniform Federal Accessibility Standards.

§ 1235.8 Reciprocity.

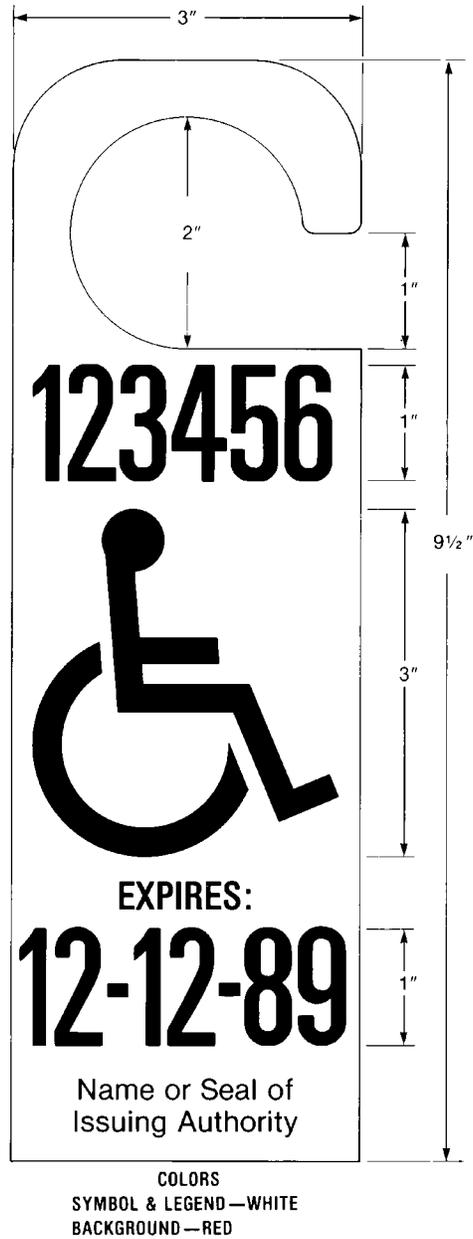
The State system shall recognize removable windshield placards, temporary removable windshield placards and special license plates which have been issued by issuing authorities of other States and countries, for the purpose of identifying vehicles permitted to utilize parking spaces reserved for persons with disabilities which limit or impair the ability to walk.

APPENDIX A TO PART 1235—SAMPLE REMOVABLE WINDSHIELD PLACARD



COLORS
SYMBOL & LEGEND — WHITE
BACKGROUND — BLUE

APPENDIX B TO PART 1235—SAMPLE TEMPORARY REMOVABLE WINDSHIELD PLACARD



SUBCHAPTER C—GENERAL PROVISIONS

PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

Sec.

- 1250.1 Scope.
- 1250.2 Purpose.
- 1250.3 Policy.
- 1250.4 Determining local share.
- 1250.5 Waivers.

AUTHORITY: 23 U.S.C. 315, 402(b); and delegations of authority at 49 CFR 1.48 and 1.50.

SOURCE: 41 FR 23948, June 14, 1976, unless otherwise noted.

§ 1250.1 Scope.

This part establishes guidelines for the States to assure their meeting the requirements for 40 percent political subdivision participation in State highway safety programs under 23 U.S.C. 402 (b)(1)(C).

§ 1250.2 Purpose.

The purpose of this part is to provide guidelines to determine whether a State is in compliance with the requirement that at least 40 percent of all Federal funds apportioned under 23 U.S.C. 402 will be expended by political subdivisions of such State.

§ 1250.3 Policy.

To assure that the provisions of 23 U.S.C. 402(b)(1)(C) are complied with, the NHTSA and FHWA field offices will:

(a) Prior to approving the State's Annual Work Program (AWP), review the AWP and each of the subelement plans which make up the AWP. The NHTSA Regional Administrator will review the 14½ safety standard areas for which NHTSA is responsible and the FHWA Division Administrator will review the 3½ safety standard areas for which FHWA is responsible. The narrative description for each subelement plan should contain sufficient information to identify the funds to be expended by, or for the benefit of the political subdivisions.

(b) Withhold approval of a State's AWP, as provided in Highway Safety Program Manual volume 103, chapter

III, paragraph 3c, where the program does not provide at least 40 percent of Federal funds for planned local program expenditures.

(c) During the management review of the State's operations, determine if the political subdivisions had an active voice in the initiation, development and implementation of the programs for which such sums were expended.

§ 1250.4 Determining local share.

(a) In determining whether a State meets the requirement that at least 40 percent of Federal 402 funds be expended by political subdivisions, FHWA and NHTSA will apply the 40 percent 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 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 40 percent requirement is applicable to the State's total federally funded safety program irrespective of Standard designation or Agency responsibility.

(b) 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 safety project related expenditures and associated indirect costs, which are reimbursable to the grantee local governments, are classifiable as the local share of Federal funds. Illustrations of such expenditures are the cost incurred by a local government in planning and administration of project related safety activities, driver education activities, traffic court programs, traffic records system improvements, upgrading emergency medical services, pedestrian safety activities, improved traffic enforcement, alcohol countermeasures, highway debris removal programs, pupil transportation programs, accident investigation, surveillance of high accident locations, and traffic engineering services.

(c) When Federal funds apportioned under 23 U.S.C. 402 are expended by the State or 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 benefitted has had an active voice in the initiation, development, and implementation of the programs for which such funds are expended. In no case may the State 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, 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 40 percent 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 40 percent 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.

(d) State agency expenditures which are generally not classified as local are within such standard areas as vehicle inspection, vehicle registration and driver licensing. However, where these Standards 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.

§ 1250.5 Waivers.

While the 40 percent requirement may be waived in whole or in part by the Secretary or his delegate, it is expected that each State program will generate political subdivision partici-

pation to the extent required by the Act so that requests for waivers will be minimized. Where a waiver is requested, however, it will 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 will recommend the appropriate percentage participation to be applied in lieu of the 40 percent.

PART 1251—STATE HIGHWAY SAFETY AGENCY

Sec.

1251.1 Purpose.

1251.2 Policy.

1251.3 Authority.

1251.4 Functions.

AUTHORITY: 23 U.S.C. 402; 23 U.S.C. 315; 49 CFR 1.48 and 1.50.

SOURCE: 45 FR 59145, Sept. 8, 1980, unless otherwise noted.

§ 1251.1 Purpose.

The purpose of this part is to prescribe the minimum authority and functions of the State Highway Safety Agency established in each State by the Governor under the authority of the Highway Safety Act (23 U.S.C. 402).

§ 1251.2 Policy.

In order for a State to receive funds under the Highway Safety Act, the Governor shall exercise his or her responsibilities through a State Highway Safety Agency that has "adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary." 23 U.S.C. 402(b)(1)(A). Accordingly, it is the policy of this part that approval of a State's Highway Safety Plan will depend upon the State's compliance with §§ 1251.3 and 1251.4 of this part.

§ 1251.3 Authority.

Each State Highway Safety Agency shall be authorized to:

(a) Develop and implement a process for obtaining information about the highway safety programs administered by other State and local agencies.

(b) Periodically review and comment to the Governor on the effectiveness of highway safety plans and activities in the State regardless of funding source.

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(c) Provide or facilitate the provision of technical assistance to other State agencies and political subdivisions to develop highway safety programs.

(d) Provide financial and technical assistance to other State agencies and political subdivisions in carrying out highway safety programs.

§ 1251.4 Functions.

Each State Highway Safety Agency shall:

(a) Develop and prepare the Highway Safety Plan prescribed by volume 102 of the Highway Safety Program Manual (23 CFR 1204.4, Supplement B), based on evaluation of highway accidents and safety problems within the State.

(b) Establish priorities for highway safety programs funded under 23 U.S.C. 402 within the State.

(c) Provide information and assistance to prospective aid recipients on program benefits, procedures for participation, and development of plans.

(d) Encourage and assist local units of government to improve their highway safety planning and administration efforts.

(e) Review the implementation of State and local highway safety plans and programs, regardless of funding source, and evaluate the implementation of those plans and programs funded under 23 U.S.C. 402.

(f) Monitor the progress of activities and the expenditure of section 402 funds contained in the State's approved Highway Safety Plan.

(g) Assure that independent audits are made of the financial operations of the State Highway Safety Agency and of the use of section 402 funds by any subrecipient.

(h) Coordinate the State Highway Safety Agency's Highway Safety Plan with other federally and non-federally supported programs relating to or affecting highway safety.

(i) Assess program performance through analysis of data relevant to highway safety planning.

PART 1252—STATE MATCHING OF PLANNING AND ADMINISTRATION COSTS

Sec. 1252.1 Purpose.

- 1252.2 Definitions.
- 1252.3 Applicability.
- 1252.4 Policy.
- 1252.5 Procedures.
- 1252.6 Responsibilities.

AUTHORITY: 23 U.S.C. 402 and 315; 49 CFR 1.48(b) and 1.50.

SOURCE: 45 FR 47145, July 14, 1980, unless otherwise noted.

§ 1252.1 Purpose.

This part establishes the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) policy on planning and administration (P&A) costs for State highway safety agencies. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, prescribes how the requirement will be met, and when States will have to comply with the requirement.

§ 1252.2 Definitions.

(a) *Fiscal year* means the twelve months beginning each October 1, and ending the following September 30.

(b) *Direct costs* are those costs which can be identified specifically with a particular planning and administration or program activity. The salary of a data analyst on the State highway safety agency staff is an example of a direct cost attributable to P&A. The salary of an emergency medical technician course instructor is an example of direct cost attributable to a program activity.

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

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

(e) *Program management costs* are those costs attributable to a program

area (e.g., salary of an emergency medical services coordinator, the impact evaluation of an activity, or the travel expenses of a local traffic engineer).

(f) *State highway safety agency* is the agency directly responsible for coordinating the State's highway safety program authorized by 23 U.S.C. 402.

§ 1252.3 Applicability.

The provisions of this part apply to obligations incurred after November 6, 1978, for planning and administration costs under 23 U.S.C. 402.

§ 1252.4 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 10 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 Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent. The Indian State, as defined by 23 U.S.C. 402 (d) and (i), is exempt from the provisions of this part. NHTSA funds shall be used only to finance P&A activities attributable to NHTSA programs and FHWA funds shall be used only to finance P&A costs attributable to FHWA programs.

[47 FR 15121, Apr. 8, 1982]

§ 1252.5 Procedures.

(a) 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. 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 nor use FHWA funds to pay more than 50 percent of the P&A costs attributable to FHWA programs. In addition, the Federal contribution for P&A activities shall not exceed 10 percent of the total funds in the State received under 23 U.S.C. 402.

(b) FHWA and NHTSA funds may be used to pay for the Federal share of P&A costs up to the amounts determined by multiplying the Federal share by the ratio between the P&A costs attributable to FHWA programs and the P&A costs attributable to NHTSA programs. For example: A State's total P&A costs are \$40,000. The State's share is 50 percent or \$20,000. To pay the remaining \$20,000, the State first ascertains the amount spent out of the total costs for each agency's programs, then applies the ratio between these two amounts to the \$20,000. If \$36,000 of the total costs are spent for NHTSA programs and \$4,000 for FHWA programs, the ratio would be 9/1 and the corresponding allocation of the Federal share would be \$18,000 to NHTSA and \$2,000 to FHWA.

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

(1) The administration and planning functions in the P&A module;

(2) The program management functions in one or more Program modules; or

(3) A combination of administration and planning functions in the P&A module and the program management functions in one or more program modules.

(d) If an employee is principally performing administration and planning functions under a P&A module, the total salary and related costs may be allocated to the P&A module. If the employee is principally performing program management functions under one or more program modules, the total salary and related costs may be charged directly to the appropriate module(s). If an employee is spending time on a combination of administration and planning functions and program management functions, the total salary and related costs may be charged to the appropriate module(s) based on the actual time worked under each module. If the State highway safety agency elects to allocate costs based on actual time spent on an activity, the State highway safety agency must keep accurate time records showing the work activities for each employee. The State's record keeping system

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must be approved by the appropriate FHWA and NHTSA officials.

(e) Those tasks and related costs contained in the P&A module, not defined as P&A costs under §1252.2(d) of this part, are not subject to the planning and administration cost matching requirement.

[45 FR 47145, July 14, 1980, as amended at 47 FR 15121, Apr. 8, 1982]

§ 1252.6 Responsibilities.

During the Highway Safety Plan approval process, the responsible FHWA and NHTSA officials shall approve a P&A module only if the projected State expenditure is at least 25 percent (or the appropriate sliding scale rate) of the total P&A costs identified in the module. If a State elects to prorate P&A and program management costs, the appropriate NHTSA and FHWA officials must approve the method that the State highway safety agency will use to record the time spent on these activities. During the process of reimbursement, the responsible FHWA and NHTSA officials shall assure that Federal reimbursement for P&A costs at no time exceeds 75 percent (of the applicable sliding scale rate) of the costs accumulated at the time of reimbursement.

PART 1260—CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Sec.

- 1260.1 Purpose.
1260.3 Objective.
1260.4 Applicability.
1260.5 Definitions.
1260.7 Adoption of national maximum speed limits.

AUTHORITY: Pub. L. 104-59, Stat. 577 and 23 U.S.C. 118, 141, 154, 315; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 58 FR 54820, Oct. 22, 1993, unless otherwise noted.

§ 1260.1 Purpose.

The purpose of this part is to implement the provisions of 23 U.S.C. 154 as amended by the National Highway System Designation Act of 1995 relating to the adoption of the National Maximum Speed Limit.

[61 FR 11306, Mar. 20, 1996]

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§ 1260.3 Objective.

The objective is to maintain the fund transfer provisions for noncompliance with the National Maximum Speed Limits until 60 days after each State's legislature next convenes.

[61 FR 11306, Mar. 20, 1996]

§ 1260.4 Applicability.

This part applies to each State only until the 60th day after the first date after December 8, 1995, on which the legislature in such State convenes.

[61 FR 11306, Mar. 20, 1996]

§ 1260.5 Definitions.

As used in this part:

(a) Highway means all streets, roads or parkways under the jurisdiction of a State, including its political subdivisions, open for use by the general public, and including toll facilities.

(b) Interstate System means the Interstate System as is described in 23 USC 103(e).

(c) Motor vehicle means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(d) National Maximum Speed Limits mean the speed limits provided for the highways described in Section 1260.7 of this Part.

(e) State means the States in which the legislature was not in session on November 28, 1995, and the Governor of the State declared, before December 8, 1995, that the legislature was not in session and that the State prefers to delay the effective date of the repeal of the National Maximum Speed Limits until after the State's legislature next convenes.

[61 FR 11306, Mar. 20, 1996]

§ 1260.7 Adoption of national maximum speed limits.

The Secretary of Transportation shall not approve any Federal-aid projects under 23 U.S.C. 106 in a State which fails to adopt or maintain maximum speed limits as follows:

(a)(1) The maximum speed limit shall be 65 mph or less on a highway located outside of an urbanized area of 50,000

population or more, either on the Interstate System, or on a highway:

(i) Which is constructed to Interstate standards in accordance with 23 U.S.C. 109(b) and connected to a highway on the Interstate System;

(ii) Which is a divided 4-lane fully controlled access highway designed or constructed to connect to a highway on the Interstate System posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour; or

(iii) Which is constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with 23 U.S.C. 139(c).

(2) The maximum speed limit on all other public highways in the State shall be 55 mph or less. Emergency and police motor vehicles may be authorized to operate at higher speeds when

necessary to protect the public health and safety.

(b) Except as provided in paragraphs (c) and (d) of this section, the speed limit on any portion of a highway shall be uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of vehicles using it.

(c) Notwithstanding the provisions of paragraph (b) of this section, a State may establish a lower speed limit for a motor vehicle operating under a special permit because of weight or dimension of such vehicle, including any load thereon.

(d) Notwithstanding the provisions of paragraph (b) of this section, a State may specify nonuniform speed limits on any portion of a highway when the condition of the highway, weather, a crash, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.