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(b) *Limitations on grants.* A state may receive a grant in a fiscal year subject to the following limitations:

(1) Beginning in fiscal year 2006, the amount of a grant under § 1345.5 shall equal up to 100 percent of the State's 23 U.S.C. 402 apportionment for fiscal year 2003, subject to availability of funds.

(2) In the first and second fiscal years beginning after September 30, 2003 that a State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(3) In the third and fourth fiscal years beginning after September 30, 2003 that a State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(4) In the fifth and sixth fiscal years beginning after September 30, 2003 that a State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

[63 FR 52597, Oct. 1, 1998, as amended at 66 FR 38918, July 26, 2001; 70 FR 69080, Nov. 14, 2005]

§ 1345.5 Requirements for a grant.

To qualify for an incentive grant, a State must adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. A State must adopt and implement at least four of the following criteria:

(a) *Safety belt use law.* (1) In fiscal years 1999 and 2000, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle does not have a safety belt properly secured about the individual's body.

(2) Beginning in fiscal year 2001, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in any seating position in the vehicle does not have a safety belt properly secured about the individual's body.

(3) To demonstrate compliance with this criterion, a State shall submit a copy of the State's safety belt use law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraphs (a)(1) or (a)(2), as appropriate, of this section. The State is also required to identify any exemptions to its safety belt use law.

(b) *Primary safety belt use law.* (1) A State must provide for primary enforcement of its safety belt use law.

(2) To demonstrate compliance with this criterion, the State shall submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (b)(1) of this section.

(c) *Minimum fine or penalty points.* (1) A State must provide for the imposition of a minimum fine of not less than $25.00 or one or more penalty points on the driver's license of an individual:

(i) For a violation of the State's safety belt use law; and

(ii) for a violation of the State's child passenger protection law.

(2)(i) To demonstrate compliance with this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (c)(1) of this section.

(ii) For purposes of this paragraph, a ''Law State'' means a State that has a law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of the minimum fines or penalty points criterion including the imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(3)(i) To demonstrate compliance with this criterion, a Data State shall submit data covering a period of at least three months during the past twelve months showing the total number of persons who were convicted of a safety belt use or child passenger protection law violation and that 80 percent or more of all such persons were required to pay at least $25 in fines, fees or court costs or had one or more

penalty points assessed against their driver's license. The State can provide the necessary data based on a representative sample.

(ii) For purposes of this paragraph, a ''Data State'' means a State that does not require the mandatory imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(4) If a State has in effect a law that provides for the imposition of a fine of not less than $25.00 or one or more penalty points for a violation of the State's child passenger protection law, but provides that imposition of the fine or penalty points may be waived if the offender presents proof of the purchase of a child safety seat, the State shall be deemed to have in effect a law that provides for the imposition of a minimum fine or penalty points, as provided in paragraph (c)(1) of this section.

(d) *Special traffic enforcement program.* (1) A State must establish a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program. The program must provide for periodic enforcement efforts. Each enforcement effort must include the following five elements, in chronological order:

(i) A seat belt observed use survey conducted before any enforcement wave;

(ii) A media campaign to inform the public about the risks and costs of traffic crashes, the benefits of increased occupant protection use, and the need for traffic enforcement as a way to manage those risks and costs.

(iii) Local media events announcing a pending enforcement wave;

(iv) A wave of enforcement effort consisting of checkpoints, saturation patrols or other enforcement tactics.

(v) A post-wave observed use survey coupled with a post-wave media event announcing the results of the survey and the enforcement effort.

(2) The State's program must provide for at least two enforcement efforts each year and must require the participation of State and local law enforcement officials in each effort.

(3) The State's program must cover at least 70% of the State's population.

(4) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a program that covers each element identified in paragraphs (d)(1) through (d)(3) of this section. Specifically, the plan shall:

(i) Provide the approximate dates, durations and locations of the efforts planned in the upcoming year;

(ii) Specify the types of enforcement methods that will be used during each enforcement effort and provide a listing of the law enforcement agencies that will participate in the enforcement efforts along with an estimate of the approximate cumulative percentage of the State's population served by those agencies or the approximate percentage of the traffic volume on roadways covered by the enforcement program; and

(iii) Document the activities the State plans to conduct to provide the public with information on the importance of occupant restraints and to publicize each enforcement effort and its results. This information should include a sample or synopsis of the content of the public information messages that will accompany the enforcement efforts and the strategy that the State intends to use to deliver each message to its target audience.

(5) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a special traffic enforcement program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that enforcement efforts were conducted; which law enforcement agencies were involved; and the dates, duration and location of each enforcement effort. The State must also submit samples of materials used, and document activities that took place to reach the target population.

(e) *Child passenger protection education program.* (1) A State must provide an effective system for educating the public about the proper use of child safety

seats. The program must, at a minimum:

(i) Provide information to the public about proper seating positions for children in air bag equipped motor vehicles, the importance of restraint use, and instruction on how to reduce the improper use of child restraint systems;

(ii) Provide for child passenger safety (CPS) training and retraining to establish or update child passenger safety technicians, law enforcement officials, fire and emergency personnel and other educators to function at the community level for the purpose of educating the public about proper restraint use and to teach child care givers how to install a child safety seat correctly. The training should encompass the goals and objectives of NHTSA's Standardized Child Passenger Safety Technician Curriculum;

(iii) Provide periodic child safety seat clinics conducted by State and local agencies (health, medical, hospital, enforcement, etc.); and

(iv) The States's public information program must reach at least 70% of the State's total population. The State's clinic program must reach at least 70% of a targeted population determined by the State and States must provide a rationale for choosing a specific group, supported by data, where possible.

(2) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a child passenger protection education program that covers each element identified in paragraph (e) (1) of this section. The information shall include:

(i) A sample or synopsis of the content of the planned public information program and the strategy that will be used to reach 70% of the State's population;

(ii) A description of the activities that will be used to train and retrain child passenger safety technicians, law enforcement officials, fire and emergency personnel and other educators and provide the durations and locations of such training activities;

(iii) An estimate of the approximate number of people who will participate in the training and retraining activities; and

(iv) A plan to conduct clinics that will serve at least 70% of the targeted population.

(3) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a child passenger protection education program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that a public information program, training and child safety seat clinics were conducted; which agencies were involved; and the dates, durations and locations of these programs.

(f) *Child passenger protection law.* (1) The State must make unlawful the operation of a passenger motor vehicle whenever an individual who is less than 16 years of age is not properly secured in a child safety seat or other appropriate restraint system.

(2) To demonstrate compliance with this criterion, a State shall submit a copy of the law(s), regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (f)(1) of this section. In addition, the State must identify any exemptions to its child passenger protection law(s).

(g) *Certifications in subsequent fiscal years:* (1) To demonstrate compliance in subsequent fiscal years the State receives a grant based on criteria in paragraphs (a), (b), (c) or (f) of this section, if the State's law, regulation or binding policy directive has not changed, the State, in lieu of resubmitting its law, regulation or binding policy directive as provided in paragraphs (a)(3), (b)(2), (c)(2)(i) or (f)(2) of this section, may submit a statement certifying that there have been no substantive changes in the State's laws, regulations, or binding policy directives.

(2) The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____ has not changed and is enforcing a law, that conforms to 23 U.S.C.

405 and 23 CFR 1345.5 (insert reference to section and paragraph), (citations to State law).

[63 FR 52597, Oct. 1, 1998, as amended at 66 FR 38918, July 26, 2001; 70 FR 69081, Nov. 14, 2005]

§ 1345.6 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the application required by § 1345.4(a) and subject to the limitation in § 1345.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts, up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 408 and 23 U.S.C. 410, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 408 and 23 U.S.C. 410 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in § 1345.4.

[63 FR 52597, Oct. 1, 1998, as amended at 70 FR 69081, Nov. 14, 2005]

PARTS 1346–1349 [RESERVED]

PART 1350—INCENTIVE GRANT CRITERIA FOR MOTORCYCLIST SAFETY PROGRAM

Sec.

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APPENDIX B TO PART 1350—GENERAL CERTIFICATIONS

AUTHORITY: Sec. 2010, Public Law 109–59, 119 Stat. 1535; delegation of authority at 49 CFR 1.50.

SOURCE: 71 FR 40898, July 19, 2006, unless otherwise noted.

§ 1350.1 Scope.

This part establishes criteria, in accordance with section 2010 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), for awarding incentive grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

§ 1350.2 Purpose.

The purpose of this part is to implement the provisions of section 2010 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), and to encourage States to adopt effective motorcyclist safety programs.

§ 1350.3 Definitions.

As used in this part—

FARS means NHTSA's Fatality Analysis Reporting System.

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

Majority means greater than 50 percent.

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

Motorcyclist awareness means an individual or collective awareness of—

(1) The presence of motorcycles on or near roadways; and