

## § 1350.1

1350.8 Use of grant funds.

APPENDIX A TO PART 1350—CERTIFICATIONS SPECIFIC TO GRANT CRITERIA FOR WHICH A STATE PREVIOUSLY RECEIVED A GRANT AWARD

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

(2) Safe driving practices that avoid injury to motorcyclists.

*Motorcyclist awareness program* means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or

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in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

*Motorcyclist safety training or Motorcycle rider training* means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

*Preceding calendar year* means the calendar year that precedes the beginning of the fiscal year of the grant by one year. (For example, for grant applications in fiscal year 2006, which began in October 2005, the preceding calendar year is the 2004 calendar year and final FARS data, State crash data and FHWA motorcycle registration data from the "preceding calendar year" would, therefore, be such data from calendar year 2004.)

*State* means any of the 50 States, the District of Columbia, and Puerto Rico.

### § 1350.4 Qualification requirements.

To qualify for a grant under this part, a State must meet, in the first fiscal year it receives a grant, at least one, and in the second and subsequent fiscal years it receives a grant, at least two, of the following grant criteria:

(a) *Motorcycle rider training course*. To satisfy this criterion, a State must have an effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs, subject to the following requirements:

(1) The State must, at a minimum:

(i) Use a training curriculum that:

(A) Is approved by the designated State authority having jurisdiction over motorcyclist safety issues;

(B) Includes a formal program of instruction in crash avoidance and other safety-oriented operational skills for

both in-class and on-the-motorcycle training to motorcyclists; and

(C) May include innovative training opportunities to meet unique regional needs;

(ii) Offer at least one motorcycle rider training course either—

(A) In a majority of the State's counties or political subdivisions; or

(B) In counties or political subdivisions that account for a majority of the State's registered motorcycles;

(iii) Use motorcycle rider training instructors to teach the curriculum who are certified by the designated State authority having jurisdiction over motorcyclist safety issues or by a nationally recognized motorcycle safety organization with certification capability; and

(iv) Use quality control procedures to assess motorcycle rider training courses and instructor training courses conducted in the State.

(2) To demonstrate compliance with this criterion in the first fiscal year it seeks to qualify, a State must submit:

(i) A copy of the official State document (e.g., law, regulation, binding policy directive, letter from the Governor) identifying the designated State authority over motorcyclist safety issues;

(ii) Document(s) demonstrating that the training curriculum is approved by the designated State authority having jurisdiction over motorcyclist safety issues and includes a formal program of instruction in crash avoidance and other safety-oriented operational skills for both in-class and on-the-motorcycle training to motorcyclists;

(iii)(A) If the State seeks to qualify under this criterion by showing that it offers at least one motorcycle rider training course in a majority of counties or political subdivisions in the State—A list of the counties or political subdivisions in the State, noting in which counties or political subdivisions and when motorcycle rider training courses were offered in the 12 months preceding the due date of the grant application; or

(B) If the State seeks to qualify under this criterion by showing that it offers at least one motorcycle rider training course in counties or political subdivisions that account for a majority of the State's registered motor-

cycles—A list of the counties or political subdivisions in the State, noting in which counties or political subdivisions and when motorcycle rider training courses were offered in the 12 months preceding the due date of the grant application and the corresponding number of registered motorcycles in each county or political subdivision according to official State motor vehicle records;

(iv) Document(s) demonstrating that the State uses motorcycle rider training instructors to teach the curriculum who are certified by the designated State authority having jurisdiction over motorcyclist safety issues or by a nationally recognized motorcycle safety organization with certification capability; and

(v) A brief description of the quality control procedures to assess motorcycle rider training courses and instructor training courses used in the State (e.g., conducting site visits, gathering student feedback) and the actions taken to improve the courses based on the information collected.

(3) To demonstrate compliance with this criterion in the second and subsequent fiscal years it seeks to qualify, a State must submit:

(i) If there have been changes to materials previously submitted to and approved for award by NHTSA under this criterion, information documenting any changes; or

(ii) If there have been no changes to materials previously submitted to and approved for award by NHTSA under this criterion, a statement certifying that there have been no changes and that the State continues to offer the motorcycle rider training course in the same manner (See appendix A of this part).

(b) *Motorcyclists awareness program.* To satisfy this criterion, a State must have an effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists, subject to the following requirements:

(1) The motorcyclists awareness program must, at a minimum:

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(i) Be developed by, or in coordination with, the designated State authority having jurisdiction over motorcyclist safety issues;

(ii) Use State data to identify and to prioritize the State's motorcyclists awareness problem areas;

(iii) Encourage collaboration among agencies and organizations responsible for, or impacted by, motorcycle safety issues; and

(iv) Incorporate a strategic communications plan that—

(A) Supports the State's overall safety policy and countermeasure program;

(B) Is designed, at a minimum, to educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest or in those jurisdictions that account for a majority of the State's registered motorcycles;

(C) Includes marketing and educational efforts to enhance motorcyclist awareness; and

(D) Uses a mix of communication mechanisms to draw attention to the problem.

(2) To demonstrate compliance with this criterion in the first fiscal year it seeks to qualify, a State must submit:

(i) A copy of the State document identifying the designated State authority having jurisdiction over motorcyclist safety issues;

(ii) A letter from the Governor's Highway Safety Representative stating that the State's motorcyclists awareness program was developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues;

(iii) Data used to identify and prioritize the State's motorcycle safety problem areas, including—

(A) If the State seeks to qualify under this criterion by showing that it identifies and prioritizes the State's motorcycle safety problem areas based on motorcycle crashes, a list of counties or political subdivisions in the State ranked in order of the highest to lowest number of motorcycle crashes per county or political subdivision (such data must be from the calendar year occurring immediately before the fiscal year of the grant application or, only if that data is not available, data from the calendar year occurring two years before the fiscal year of the grant

application (e.g., for a fiscal year 2006 grant, a State must provide data from calendar year 2005, if such data is available, or data from calendar year 2004 only if data from calendar year 2005 is not available)); or

(B) If the State seeks to qualify under this criterion by showing that it identifies and prioritizes the State's motorcycle safety problem areas based on motorcycle registrations, a list of counties or political subdivisions in the State and the corresponding number of registered motorcycles for each county or political subdivision according to official State motor vehicle records;

(iv) A brief description of how the State has achieved collaboration among agencies and organizations responsible for, or impacted by, motorcycle safety issues; and

(v) A copy of the strategic communications plan showing that it:

(A) Supports the State's overall safety policy and countermeasure program;

(B) Is designed to educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest (*i.e.*, the majority of counties or political subdivisions in the State with the highest numbers of motorcycle crashes) or is designed to educate motorists in those jurisdictions that account for a majority of the State's registered motorcycles (*i.e.*, the counties or political subdivisions that account for a majority of the State's registered motorcycles as evidenced by State motor vehicle records);

(C) Includes marketing and educational efforts to enhance motorcyclist awareness; and

(D) Uses a mix of communication mechanisms to draw attention to the problem (e.g., newspapers, billboard advertisements, e-mail, posters, flyers, mini-planners, or instructor-led training sessions).

(3) To demonstrate compliance with this criterion in the second and subsequent fiscal years it seeks to qualify, a State must submit:

(i) If there have been changes to materials previously submitted to and approved for award by NHTSA under this criterion, information documenting any changes; or

(ii) If there have been no changes to materials previously submitted to and

approved for award by NHTSA under this criterion, a statement certifying that there have been no changes and that the State continues to implement its motorcyclists awareness program in the same manner (See appendix A of this part).

(c) *Reduction of fatalities and crashes involving motorcycles.* To satisfy this criterion, a State must experience a reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 registered motorcycle registrations), subject to the following requirements:

(1) As computed by NHTSA, a State must:

(i) Based on final FARS data, experience at least a reduction of one in the number of motorcycle fatalities for the preceding calendar year as compared to the calendar year immediately prior to the preceding calendar year; and

(ii) Based on State crash data expressed as a function of 10,000 motorcycle registrations (using FHWA motorcycle registration data), experience at least a whole number reduction (*i.e.*, at least a 1.0 reduction) in the rate of motor vehicle crashes involving motorcycles for the preceding calendar year as compared to the calendar year immediately prior to the preceding calendar year.

(2) To be considered for compliance under this criterion in any fiscal year it seeks to qualify, a State must submit:

(i) State data showing the total number of motor vehicle crashes involving motorcycles in the State for the preceding calendar year and for the year immediately prior to the preceding calendar year; and

(ii) A description of the State's methods for collecting and analyzing data showing the number of motor vehicle crashes involving motorcycles in the State for the preceding calendar year and for the calendar year immediately prior to the preceding calendar year, including a description of the State's efforts to make reporting of motor vehicle crashes involving motorcycles as complete as possible (the methods used by the State for collecting this data

must be the same in both years or improved in subsequent years);

(d) *Impaired driving program.* To satisfy this criterion, a State must implement a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation, subject to the following requirements:

(1) The impaired driving program must, at a minimum:

(i) Use State data to identify and prioritize the State's impaired driving and impaired motorcycle operation problem areas; and

(ii) Include specific countermeasures to reduce impaired motorcycle operation with strategies designed to reach motorcyclists and motorists in those jurisdictions where the incidence of impaired motorcycle crashes is highest.

(2) To demonstrate compliance with this criterion in the first fiscal year it seeks to qualify, a State must submit:

(i) State data used to identify and prioritize the State's impaired driving and impaired motorcycle operation problem areas, including a list of counties or political subdivisions in the State ranked in order of the highest to lowest number of impaired motorcycle crashes per county or political subdivision (such data must be from the calendar year occurring immediately before the fiscal year of the grant application or, only if that data is not available, data from the calendar year occurring two years before the fiscal year of the grant application (*e.g.*, for a fiscal year 2006 grant, a State must provide data from calendar year 2005, if such data is available, or data from calendar year 2004 only if data from calendar year 2005 is not available));

(ii) A description of the State's impaired driving program as implemented, including a description of its specific countermeasures used to reduce impaired motorcycle operation with strategies designed to reach motorcyclists and motorists in those jurisdictions where the incidence of impaired motorcycle crashes is highest (*i.e.*, the majority of counties or political subdivisions in the State with the highest numbers of impaired motorcycle crashes); and

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(iii) A copy of the State's law or regulation defining impairment or the legal citation(s) to the State's law or regulation defining impairment. (A State is not eligible for a grant under this criterion if its legal alcohol-impairment level exceeds .08 BAC).

(3) To demonstrate compliance with this criterion in the second and subsequent years it seeks to qualify, a State must submit:

(i) If there have been changes to materials previously submitted to and approved for award by NHTSA under this criterion, information documenting any changes; or

(ii) If there have been no changes to materials previously submitted to and approved for award by NHTSA under this criterion, a statement certifying that there have been no changes and that the State continues to implement its impaired driving program in the same manner (See appendix A of this part).

(e) *Reduction of fatalities and accidents involving impaired motorcyclists.* To satisfy this criterion, a State must experience a reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- and drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations), subject to the following requirements:

(1) As computed by NHTSA, a State must:

(i) Based on final FARS data, experience at least a reduction of one in the number of fatalities involving alcohol- and drug-impaired motorcycle operators for the preceding calendar year as compared to the calendar year immediately prior to the preceding calendar year; and

(ii) Based on State crash data expressed as a function of 10,000 motorcycle registrations (using FHWA motorcycle registration data), experience at least a whole number reduction (*i.e.*, at least a 1.0 reduction) in the rate of reported crashes involving alcohol- and drug-impaired motorcycle operators for the preceding calendar year as compared to the calendar year immediately prior to the preceding calendar year.

(2) To be considered for compliance under this criterion in any fiscal year

it seeks to qualify, a State must submit:

(i) Data showing the total number of reported crashes involving alcohol- and drug-impaired motorcycle operators in the State for the preceding calendar year and for the year immediately prior to the preceding calendar year;

(ii) A description of the State's methods for collecting and analyzing data showing the number of reported crashes involving alcohol- and drug-impaired motorcycle operators in the State for the preceding calendar year and for the calendar year immediately prior to the preceding calendar year, including a description of the State's efforts to make reporting of crashes involving alcohol- and drug-impaired motorcycle operators as complete as possible (the methods used by the State for collecting this data must be the same in both years or improved in subsequent years); and

(iii) A copy of the State's law or regulation defining alcohol- and drug-impairment or the legal citation(s) to the State's law or regulation defining impairment. (A State is not eligible for a grant under this criterion if its legal alcohol-impairment level exceeds .08 BAC).

(f) *Use of fees collected from motorcyclists for motorcycle programs.* To satisfy this criterion, a State must have a process under which all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs, subject to the following requirements:

(1) A State may qualify under this criterion as either a Law State or a Data State.

(2) To demonstrate compliance as a Law State, the State must submit:

(i) In the first fiscal year it seeks to qualify, a copy of the law or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs.

(ii) In the second and subsequent years it seeks to qualify:

(A) If there have been changes to materials previously submitted to and approved for award by NHTSA under this criterion, a copy of the law or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs; or

(B) If there have been no changes to materials previously submitted to and approved for award by NHTSA under this criterion, a certification by the State that its law or regulation has not changed since the State submitted its last grant application and received approval (See appendix A of this part).

(3) To demonstrate compliance as a Data State, in any fiscal year it seeks to qualify, a State must submit data and/or documentation from official records from the previous State fiscal year showing that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs. Such data and/or documentation must show that revenues collected for the purposes of funding motorcycle training and safety programs were placed into a distinct account and expended only for motorcycle training and safety programs.

(4) Definitions. As used in this section—

(i) A Law State is a State that has a law or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs.

(ii) A Data State is a State that does not have a law or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs but can show through data and/or documentation from official records showing that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs.

#### § 1350.5 Application requirements.

(a) No later than August 18 in fiscal year 2006 and no later than August 1 of the remaining fiscal years for which the State is seeking a grant under this part, the State must submit, through its State Highway Safety Agency, an application to the appropriate NHTSA Regional Administrator. The State's application must:

(1) Identify the criteria that it meets and satisfies the minimum requirements for those criteria under § 1350.4;

(2) For second and subsequent year grants, include the applicable criteria-specific certifications in appendix A to this part, as specified in § 1350.4; and

(3) For each fiscal year, include the general certifications in appendix B to this part.

(b) A State must submit an original and two copies of its application to the appropriate NHTSA Regional Administrator.

(c) To ensure a manageable volume of materials for the agency's review of applications, a State should not submit media samples unless specifically requested by the agency.

#### § 1350.6 Awards.

(a) NHTSA will review each State's application for compliance with the requirements of this part and will notify qualifying States in writing of grant awards. In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the information required by this part.

(b) NHTSA may request additional information from a State prior to making a determination of award.

(c) Except as provided in paragraph (d) of this section, the amount of a grant made to a State for a fiscal year under this program may not be less than \$100,000 and may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

(d) The release of grant funds under this part is subject to the availability of funds for each 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 amount upon initial approval of a State's application and release the remainder, up to