(f) Axial movement of serviceable bearings in the housings of the wing bellcranks is permitted provided no wear or damage to the bearing is found.

(g) Any sign of axial movement of a bearing in the housing of the fuselage bellcrank assembly requires that you obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (i) of this AD and incorporate the repair scheme.

(h) 14 CFR 21.303 allows for replacement parts through parts manufacturer approval (PMA). The phrase ''or FAA-approved equivalent part number'' in this AD is intended to signify those parts that are PMA approved through identicality to the design of the part under the type certificate and replacement parts to correct the unsafe condition under PMA (other than identicality). If parts are installed that are identical to the unsafe parts, then the corrective actions of the AD affect these parts also. In addition, equivalent replacement parts to correct the unsafe condition under PMA (other than identicality) may also be installed provided they meet current airworthiness standards, which include those actions cited in this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Standards Office, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(j) AMOCs approved for AD 2003–09–01 are approved for this AD.

Related Information

(k) Swiss AD Number HB 2005–289, effective date August 23, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must do the actions required by this AD following the instructions in Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.

(1) As of June 17, 2003 (68 FR 22582, April 29, 2003), the Director of the Federal Register previously approved the incorporation by reference of Pilatus Service Bulletin No. 27–001, dated June 5, 2002, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) To get a copy of this service information, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2006–24092; Directorate Identifier 2006–CE–18–AD.

Issued in Kansas City, Missouri, on July 10, 2006.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–11333 Filed 7–18–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1350

[Docket No. NHTSA–2006–23700]

RIN 2127–AJ86

Motorcyclist Safety Grant Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule implements the Motorcyclist Safety grant program authorized under section 2010 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) for fiscal years 2006 through 2009. Eligibility for the section 2010 grants is based on six statutorily-specified grant criteria. To receive an initial section 2010 grant, a State must demonstrate compliance with at least one of the six grant criteria. To receive a grant in subsequent fiscal years, a State must demonstrate compliance with at least two of the six grant criteria. This final rule establishes the requirements a State must meet and the procedures it must follow to receive a section 2010 Motorcyclist Safety grant, beginning in fiscal year 2006.

DATES: This final rule becomes effective on July 19, 2006.

FOR FURTHER INFORMATION CONTACT: *For program issues:* Marti Miller, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366–2121. *For legal issues:* Allison Rusnak, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366–1834.

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I. Background

An estimated 128,000 motorcyclists have died in traffic crashes since the enactment of the Highway Safety Act of 1966. There are nearly 6 million motorcycles [1] registered in the United States. Motorcycles made up more than 2 percent of all registered vehicles in the United States in 2004 and accounted for an estimated 0.3 percent of all vehicle miles traveled. Per vehicle mile traveled in 2004, motorcyclists were about 34 times more likely to die and 8 times more likely to be injured in a motor vehicle traffic crash than passenger car occupants. Motorcycle rider fatalities reached a high of 5,144 in 1980. After dropping to a low of 2,116 in 1997, motorcycle rider fatalities have increased for 7 consecutive years, reaching a total of 4,008 in 2004, the last full year for which data are available—an increase of 89 percent. Preliminary 2005 Fatality Analysis Reporting System (FARS) data show a projected increase of 7.7% in motorcycle fatalities.

Impaired motorcycle operation contributes considerably to motorcycle fatalities and injuries. In fatal crashes in 2004, a higher percentage of motorcycle operators than any other type of motor vehicle operator had blood alcohol concentration (BAC) levels of .08 grams

[1] For the purposes of the section 2010 grants, NHTSA proposed in the NPRM that the term ''motorcycle'' would have the same meaning as in 49 CFR 571.3, ''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.'' NHTSA received no comments on the meaning of the term ''motorcycle.'' Therefore, we retain the definition without change in this final rule.

per deciliter (g/dL) or higher. The percentages for vehicle operators involved in fatal crashes were 27 percent for motorcycles, as compared to 22 percent for passenger cars, 21 percent for light trucks, and 1 percent for large trucks.

NHTSA traditionally promotes motorcycle safety through highway safety grants and technical assistance to States, data collection and analysis, research, and safety standards designed to contribute to the safe operation of a motorcycle. NHTSA has allocated resources to support these broad initiatives since the agency's inception in the late 1960s and has collected and analyzed data on motorcycle safety since 1975.

II. Section 2010 Statutory Requirements

On August 10, 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) was enacted into law (Pub. L. 109–59). Section 2010 of SAFETEA–LU authorizes the Secretary of Transportation to ''make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists,'' based on six grant criteria: *(1) Motorcycle Rider Training Courses; (2) Motorcyclists Awareness Program; (3) Reduction of Fatalities and Crashes Involving Motorcycles; (4) Impaired Driving Program; (5) Reduction of Fatalities and Accidents Involving Impaired Motorcyclists; and (6) Use of Fees Collected from Motorcyclists for Motorcycle Programs.*

SAFETEA–LU specifies that to qualify for an initial section 2010 grant, a State must demonstrate compliance with at least one of the six grant criteria, and to qualify for a grant in subsequent fiscal years, a State must demonstrate compliance with at least two of the six grant criteria. Under this four-year grant program, which covers fiscal years 2006 through 2009, a State may use grant funds for a variety of motorcyclist safety training and motorcyclist awareness programs or it may suballocate funds to a nonprofit organization incorporated in the State to carry out grant activities. The term ''State'' has the same meaning as in section 101(a) of title 23, United States Code, and includes any of the fifty States, the District of Columbia and Puerto Rico.

III. Section 2010 Administrative Requirements

SAFETEA–LU stipulates several administrative requirements for the section 2010 grant program. The amount of a grant made to a State for a fiscal year under this grant 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.

As specified in SAFETEA–LU, a State may use section 2010 grant funds only for motorcyclist safety training and motorcyclist awareness programs, including:

(1) Improvements to motorcyclist safety training curricula;

(2) Improvements in program delivery of motorcycle training to both urban and rural areas (including procurement or repair of practice motorcycles, instructional materials, mobile training units, and leasing or purchasing facilities for closed-course motorcycle skill training) [2];

(3) Measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(4) Public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the ''share-the-road'' safety messages developed using Share-the-Road model language required under section 2010(g) of SAFETEA–LU.

IV. Notice of Proposed Rulemaking

The agency published a notice of proposed rulemaking (NPRM) on May 24, 2006 (71 FR 29855) to implement the new section 2010 grant program under SAFETEA–LU. The NPRM outlined certain procedural steps to be followed by States seeking to apply for a grant and set forth proposed requirements for the six eligibility criteria.

For the *Motorcycle Rider Training Courses* criterion, the NPRM generally proposed that a State use a training curriculum that is approved by the designated State authority having jurisdiction over motorcyclist safety issues and taught by certified motorcycle rider training instructors; offer at least one motorcycle rider training course in a majority of the State's counties or political subdivisions or in counties or political subdivisions that account for a majority of the State's registered motorcycles; and use quality control procedures to assess motorcycle rider training courses and instructor training courses conducted in the State.

For the *Motorcyclists Awareness Program* criterion, the NPRM proposed that a State develop a program by, or in coordination with, the designated State authority having jurisdiction over motorcyclist safety issues; use State data to identify and prioritize the State's motorcycle safety problem areas; encourage collaboration among agencies and organizations responsible for, or impacted by, motorcycle safety issues; and incorporate a strategic communications plan that supports the overall policy and program, is designed to educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest, includes marketing and educational efforts to enhance motorcyclist awareness, and uses a mix of communication mechanisms to draw attention to the problem.

The NPRM proposal for the *Reduction of Fatalities and Crashes Involving Motorcyclists* criterion required that a State experience at least a reduction of one in the number of motorcycle fatalities and at least a whole number reduction in the rate of motor vehicle crashes involving motorcyclists. The NPRM explained that this criterion would rely on final FARS data, State crash data and Federal Highway Administration (FHWA) motorcycle registration data to determine whether a State experienced the required reductions for the preceding calendar year as compared to the calendar year occurring immediately prior to the preceding calendar year.

The agency's proposal for the fourth criterion, *Impaired Driving Program,* included requirements that a State have an impaired driving program that uses State data to identify and prioritize the State's impaired driving and impaired motorcycle operation problem areas and includes specific countermeasures to reduce impaired motorcycle operation with strategies designed to reach motorists in those jurisdictions where the incidence of impaired motorcycle crashes is highest. NHTSA proposed that for the purposes of this criterion, ''impaired'' would refer to alcohol-impaired or drug-impaired as defined by State law, provided that the State's legal alcohol-impairment level does not exceed .08 BAC.

For the *Reduction of Fatalities and Accidents Involving Impaired Motorcyclists* criterion, the NPRM proposed that a State experience at least a reduction of one in the number of fatalities involving alcohol-impaired and drug-impaired motorcycle operators

[2] In connection with the leasing or purchasing of facilities, grantees should note that the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Pub. L. 109–115) places limits on the use of section 2010 funds. Specifically, the Act provides that none of the section 2010 funds ''shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local or private buildings or structures.''

and at least a whole number reduction in the rate of reported crashes involving alcohol-impaired and drug-impaired motorcycle operators. As with the *Reduction of Fatalities and Crashes Involving Motorcyclists* criterion discussed above, the NPRM proposed that this criterion would rely on final FARS data, State crash data and FHWA motorcycle registration data to determine whether a State experienced the required reductions for the preceding calendar year as compared to the calendar year occurring immediately prior to the preceding calendar year.

The NPRM proposed that for the sixth criterion, *Use of Fees Collected From Motorcyclists for Motorcycle Programs,* a State may qualify as a ''Law State'' or a ''Data State.'' NHTSA proposed that a Law State would mean 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. NHTSA proposed that a Data State would mean a State that does not have such a law or regulation but can provide 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.

For each of the six eligibility criteria, the NPRM proposed various supporting submissions required for a State seeking to qualify.

The proposal specified an application deadline of August 15 for fiscal year 2006 and August 1 for subsequent fiscal years. To afford the States additional time, consistent with the agency's need for review time, we have changed the due date for fiscal year 2006 from August 15 to August 18. Under the proposal, States would certify that they would conduct activities and use funds in accordance with the requirements of the section 2010 program and other applicable laws and that they would maintain aggregate expenditures from all other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in State or Federal fiscal years 2003 and 2004.

Consistent with the procedures in other highway safety grant programs administered by NHTSA, the proposal provided that, within 30 days after notification of award but in no event later than September 12, States must submit an electronic HS Form 217 obligating the grant funds to the Motorcyclist Safety grant program. The NPRM also proposed that States identify their proposed use of grant funds in the Highway Safety Plans prepared under the section 402 program and detail program accomplishments in the Annual Report submitted under that program. The proposal explained that these documentation requirements would continue each fiscal year until all grant funds were expended.

Because SAFETEA–LU did not specify a matching requirement for the section 2010 program, the NPRM explained that the Federal share of programs funded under section 2010 would be 100 percent.

The NPRM proposed that States could qualify under certain criteria in second and subsequent years by certifying that the State has made no changes to the materials previously submitted to and approved by NHTSA. The final rule clarifies that a State may use a certification for qualification only if it has made no changes to the materials previously submitted to and approved *for award* by NHTSA. The NPRM provided a certification form applying to those criteria for the second and subsequent fiscal years as well as a general certification form that applies to all criteria each fiscal year. Based on the agency's experience with certification forms, particularly with respect to the new grant programs authorized by SAFETEA–LU, we included additional references to Appendix A in the regulatory text and provided clarifying instructions in Appendices A and B. The agency believes these additions will contribute to the ease of use.

V. Comments

The agency received submissions from 34 commenters in response to the NPRM. Commenters included three State highway safety agencies (the Tennessee Department of Safety, the Utah Department of Public Safety, and the Nevada Office of Traffic Safety); a company that offers training in accident scene management (Accident Scene Management, Inc.); the Governors Highway Safety Association (GHSA); the Motorcycle Riders Foundation (MRF); and 28 individuals, some of whom identified themselves as motorists, riders or members of motorcycle rider organizations such as American Bikers Aimed Toward Education (ABATE) or BikePAC.

A. In General

The agency received several positive comments in response to the NPRM. The Nevada Office of Traffic Safety commented that the proposal was acceptable as written. GHSA expressed general support for the NPRM. The MRF and one individual commented that the NPRM provides adequate flexibility to States and is consistent with the statutory language.

A number of commenters raised issues that are not within the scope of the grant program or the rule. The agency received comments from 13 individuals generally opposed to the use or intensity of daytime running lights (DRLs) on motor vehicles and/or motorcycles. One individual advocated the right of motorcyclists to have their motorcycles serviced at aftermarket shops rather than by motorcycle dealers. Another individual urged the agency to add as a criterion for the selection of grant recipients a requirement that the legislature enact mandatory and more severe penalties for motor vehicle drivers who cause the death of motorcyclists. Section 2010 of SAFETEA–LU does not address any of these issues or authorize the agency to do so in this grant program. Consequently, we have made no changes to the rule in response to these comments.

The remaining comments relate to administrative issues or particular grant criteria. The agency received at least one comment concerning five of the six eligibility criteria. Because we received no comments pertaining to the *Use of Fees Collected From Motorcyclists for Motorcycle Programs* criterion, the requirements for this criterion remain unchanged in the final rule. Comments related to the remaining five eligibility criteria and to certain administrative requirements States must meet to qualify for a section 2010 grant are addressed below, under the appropriate heading.

B. Comments Regarding Programmatic Criteria

1. Motorcycle Rider Training Courses

The agency received several comments generally in favor of increased motorcycle rider education and training and we agree that increased and continuing rider education can be beneficial in ensuring the safety of motorcyclists.

Two individuals commented that motorcyclists should receive insurance benefits as an incentive for completing training courses. Another individual commented that motorcycle education should include stress management and avoidance techniques. Accident Scene Management, Inc. and one individual asked NHTSA to ensure that a portion of the section 2010 grants funds be used to educate motorcyclists on first response or bystander assistance

training or to encourage first response or bystander assistance training as part of motorcycle safety training.

Although NHTSA welcomes insurance incentives to encourage motorcycle rider training, matters of insurance are traditionally issues of State law and an insurance incentive requirement is not specified in the statute. Therefore, the agency believes an insurance incentive requirement is not appropriate for inclusion in the rule. As to the content of motorcycle rider training course curricula, the agency acknowledges that stress management and first response or bystander training may be valuable tools for motorcyclists. Nothing in the rule or the statutory language would preclude a State from pursuing the objectives recommended by the commenters. However, we believe the statutory language of section 2010 demonstrates that Congress intended to provide States with significant latitude in developing curricula. Accordingly, we decline to mandate these as requirements, and the final rule continues to provide States with discretion in developing their motorcycle rider training course curricula.

While the agency does not believe that a mandate for first response or bystander assistance training is appropriate for inclusion in the rule, we understand the importance of bystander care and have developed the *First Care, First There* program to provide the public information and training to offer lifesaving bystander care at the scene of a motorcycle or motor vehicle crash, increasing the chance of survival for victims. Program materials include *First There, First Care* brochures, instructor preparation kits for medical professionals, and student booklet/emergency action card sets in English and Spanish. These materials may be ordered by States for use in their programs, without charge, directly from the NHTSA Web site at: *http://nhtsa.gov/people/outreach/media/catalog/Index.cfm.*

GHSA questioned the accuracy of FHWA motorcycle registration data under this criterion as well as the *Reduction of Fatalities and Crashes Involving Motorcycles* criterion and the *Reduction of Fatalities and Accidents Involving Impaired Motorcyclists* criterion. GHSA correctly noted that the NPRM proposed the use of FHWA motorcycle registration data for these latter two criteria to calculate reductions in fatalities and crashes, and this is discussed below under the heading for the criteria related to reductions in fatalities and crashes. However, the NPRM did not propose the use of FHWA motorcycle registration data for the *Motorcycle Rider Training Courses* criterion. Rather it proposed the use of official State motor vehicle records corresponding to counties or political subdivisions if a State seeks to qualify 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 motorcycles. The final rule retains the use of State motor vehicle records for this criterion, as FHWA motorcycle registration data is collected on a statewide basis and does not show motorcycle registrations by county or political subdivision.

In the NPRM, the agency noted that about half of all motorcycle-related fatalities occur in rural areas and stated that it is important that training is accessible to motorcyclists in rural areas. In section 2010 of SAFETEA–LU, Congress recognized the importance of training in rural areas by specifying that an eligible use of funds includes improvements in program delivery of motorcycle training to both urban and rural areas. The NPRM encouraged States to establish training courses and course locations that are accessible to both rural and urban areas but stopped short of conditioning funding on the provision of training to rural areas.

GHSA questioned NHTSA's advocacy of training in rural areas, stating that the high incidence of fatalities in rural areas does not necessarily equate with training needs in rural areas. According to GHSA, ''if a state has motorcycle training in counties that cover the majority of the state's population, there is little justification for providing additional training in the remaining rural counties.''

The agency continues to believe it is important to make training available to rural motorcycle operators and encourages States to provide courses in both urban and rural areas. We believe that providing a State the option under this criterion either to offer training in a majority of its counties or political subdivisions or to offer training in counties or political subdivisions that account for a majority of the State's registered motorcycles strikes an acceptable balance between rural and urban training. However, because the NPRM did not mandate rural training, no changes are made in response to GHSA's comment. The agency trusts that States will select the proper option under this criterion to ensure that training is offered throughout the State.

2. Motorcyclists Awareness Program

The agency received several comments from individuals generally in favor of increased motorist awareness of the presence of motorcycles and agrees that increased awareness is a key to ensuring the safety of motorcyclists. One individual commented that it is unfair to place more burden on motorcyclists than on motorists for education and prevention of motorcycle crashes. This individual and another individual recommended, as a more efficient use of money, that motorcycle awareness training be required for all driver license applicants. The requirements and conditions of driver licensing are properly a matter of State law. While the commenters' points may have merit, we decline to mandate a requirement in an area traditionally subject to State law.

Four individuals suggested the use of section 2010 grant funds for awareness activities using specific communications mechanisms (e.g., television, radio, billboards, bumper stickers), and two of those individuals recommended particular awareness messages (''Look Twice, Save a Life'', ''Share the Road with Motorcyclists'', ''Let's Not Meet by Accident''). NHTSA agrees that using such communications mechanisms and awareness messages can be beneficial to a comprehensive awareness program. However, we do not believe it is appropriate to dictate communications mechanisms or awareness messages. A State should be free to tailor its communications mechanisms and awareness messages to particular needs in the State. Nothing in the statutory language or the final rule, however, precludes States from using section 2010 grants for the specific purposes suggested by these commenters.

Section 2010 of SAFETEA–LU requires that a State have ''an effective statewide program to enhance motorist awareness of the presence of motorcyclists.'' To effectuate this requirement, the NPRM proposed that a State use State data to identify and prioritize its motorcyclist awareness problem areas and that it have a communications plan 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). To demonstrate compliance with this portion of the criterion, the NPRM proposed that a State provide 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 and a copy of its strategic communications plan showing that it is designed to

educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest.

The Utah Department of Public Safety expressed overall support for the NPRM's proposal under this criterion but indicated that the proposed language (that the communications plan be designed to educate motorists in those jurisdictions where the incidence of motorcycle crashes is highest) ''seems to leave questions about interpretation.'' The Utah Department of Public Safety commented that the program would be ''well served'' if NHTSA incorporated ''dual level criteria'' to achieve a statewide program, including counties where a majority of motorcycles are registered and counties where the majority of the motorcycle crashes occurred. According to the Utah Department of Public Safety, in Utah and in many western States, population densities vary widely between counties. The Utah Department of Public Safety explained that, in Utah, six of the twenty-nine counties contain over 85 percent of the State's population.

Given such high densities of population in a relatively few number of counties in some States, the agency agrees that it is beneficial to incorporate a motorcycle registration component into this criterion. Although not precisely clear from the comment, we interpret Utah's request to seek inclusion of this approach as an alternative option. We have changed the final rule to require that a State must have a motorcyclists awareness program that incorporates a strategic communications plan that is designed 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*. To demonstrate compliance with this new option, a State must provide 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. Additionally, the State's strategic communications plan must show that it 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). Because FHWA motorcycle registration data is not specific to counties or political subdivisions, the final rule requires a State to use its own motor vehicle records under this option.

In the NPRM, the agency proposed that a State use motorcycle crash data from the calendar year occurring immediately before the fiscal year of the grant application to identify and prioritize the State's motorcycle safety problem areas. For example, for fiscal year 2006, the NPRM would require a State to provide motorcycle crash data from calendar year 2005. The Utah Department of Public Safety expressed doubt about its ability to provide current data in a timely manner and instead recommended using the definition of ''preceding calendar year'' proposed for the two eligibility criteria pertaining to fatality and crash reductions.

Congress limited its use of the term ''preceding calendar year'' to the two eligibility criteria pertaining to fatality and crash reductions. If a State chooses to apply using this option of the criterion, the agency prefers the most recent data and believes that many States will be able to provide data as proposed in the NPRM. However, because we recognize that some States may have difficulty, we have changed the rule to require a State to use and provide motorcycle crash data 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. That is, under this option, for fiscal year 2006, a State must use and provide motorcycle crash data from calendar year 2005 or, only if that data is not available, data from calendar year 2004. The final rule makes a conforming change for data required under the *Impaired Driving Program* criterion.

GHSA raised a number of additional concerns regarding the NPRM proposal for the *Motorcyclists Awareness Program* criterion. Focusing an awareness campaign on the majority of counties or political subdivisions with the highest numbers of motorcycle crashes, according to GHSA, may not correlate with inadequate motorist awareness of motorcyclists. GHSA also commented that lack of awareness does not lend itself to deployment to specific locations, asserting that States conduct awareness campaigns on a statewide basis rather than by targeting specific locations. With respect to the former point, NHTSA believes this concern is addressed in the final rule by the incorporation of an option for a State's strategic communications plan to educate motorists in those jurisdictions that account for a majority of the State's registered motorcycles, as discussed above. As to the latter concern, the agency disagrees with this assertion, as States routinely target particular locations in their awareness campaigns. We decline to change the rule in response to this comment.

GHSA expressed concern about the NPRM's proposal that a State use a variety of communications mechanisms. GHSA commented that States have limited resources and cannot engage in a communications campaign that rises to the level of campaigns for safety belts and impaired driving. GHSA indicated that States may have sufficient resources for some communications (*e.g.*, brochures, flyers and posters), but not for billboards, newspaper ads, other paid media or computer-based training. Mindful that the funding for motorcyclists awareness programs is often limited, the NPRM did not specify which communications mechanisms a State must utilize as part of its motorcyclists awareness program, instead providing States with significant latitude to use communications mechanisms that best fit their needs and budget constraints. Based on NHTSA's experience with dispersing traffic safety messages, the agency believes that a variety of communications mechanisms can be most effective in a comprehensive awareness program. The final rule remains unchanged and continues to provide discretion to States regarding this issue.

GHSA also commented that States are unlikely to develop a strategic communications plan for motorcyclist awareness alone, instead developing a broad communications plan that covers all priority highway safety programs, including motorcyclist awareness. GHSA stated that communications strategies that work with other highway safety issues may not be appropriate with respect to motorcyclist awareness. A ''more reasonable'' approach, according to GHSA, would require that a State develop a ''statewide educational program'' with its motorcycle safety agency and other agencies and organizations responsible for, or impacted by, motorcycle safety issues.

As part of its communications program, the agency encourages States to develop a comprehensive communications plan to address its safety problems. This plan is intended to have communications efforts support State safety program activity on the ground. Consequently, the agency encourages and expects States to develop a comprehensive safety plan that includes a communications support program in lieu of individual countermeasure-specific communications plans. Accordingly, a motorcyclist safety awareness

communications component developed as part of a comprehensive State communications program is acceptable. Alternatively, a State may develop a stand-alone motorcycle safety strategic communications plan that describes how the communications will support State motorcycle safety countermeasure program initiatives. While the first approach is preferred and encouraged, either approach is adequate for grant eligibility. The rule includes language to clarify this issue.

As to GHSA's suggestion that the agency instead require a ''statewide educational program'' with collaboration among motorcycle safety agencies and organizations, the agency continues to believe that an awareness program is an educational program, and the statutory language of section 2010 requires a State to conduct its awareness program statewide. The final rule adopts the NPRM language and requires that States collaborate with agencies and organizations responsible for, or impacted by, motorcycle safety issues.

3. Reduction of Fatalities and Crashes Involving Motorcycles and Reduction of Fatalities and Accidents Involving Impaired Motorcyclists

The MRF questioned the use of certain data for the *Reduction of Fatalities and Crashes Involving Motorcycles* criterion and the *Reduction of Fatalities and Accidents Involving Impaired Motorcyclists* criterion. The MRF recommended the use of State crash data, rather than what the MRF understood to be ''FHWA FARS'' data for motorcycle crashes. The MRF explained that it has notified both NHTSA and FHWA that the FARS motorcycle crash data is flawed. NHTSA is aware of concerns the MRF has raised previously about FHWA data but not about FARS data (FARS data is compiled by NHTSA, not by FHWA). The agency understands those concerns to be related to FHWA vehicle miles traveled (VMT) data, not motorcycle registration data. The NPRM did not propose using FHWA VMT data. We retain the use of FHWA motorcycle registration data in the final rule, as the agency continues to believe the FHWA motorcycle registration database contains reliable motorcycle registration data compiled annually in a single source for all 50 States, the District of Columbia, and Puerto Rico.

To the extent that the MRF intended to express concern regarding the use of FARS data, the agency notes that FARS is one of the premier reporting systems in the world for fatal crash data and is used by researchers worldwide. As indicated in the NPRM, NHTSA believes that using the final FARS data will ensure that the most accurate fatality numbers are used to determine each State's compliance with this criterion. The FARS contains data derived from a census of fatal traffic crashes within the 50 States, the District of Columbia, and Puerto Rico. All FARS data on fatal motor vehicle crashes are gathered from the States' own documents and coded into FARS formats with common standards. Final FARS data provide comprehensive, quality-controlled fatality data. Accordingly, we preserve the use of FARS data in the rule. The final rule retains the NPRM proposal to use State crash data provided by the State to determine the number of motor vehicle crashes involving motorcycles and the number of reported crashes involving alcohol-impaired and drug-impaired motorcycle operators for the respective criteria.

GHSA also raised concerns about the use of FHWA data for these criteria and recommended that NHTSA use the FHWA motorcycle registration data on a short term basis only until NHTSA develops a better database. In doing so, GHSA cited a report from the Insurance Institute for Highway Safety (IIHS) questioning the adequacy of FHWA motor vehicle registration data, and asked whether the same concerns could be raised about FHWA motorcycle registration data. The IIHS report GHSA cites refers to FHWA licensed drivers data, not to registration data. NHTSA has no plans to develop an alternative motorcycle registration database. For the reasons stated above, the final rule retains the use of FHWA data for these criteria.

4. Impaired Driving Program

The agency received no comments specific to the Impaired Driving Program criterion. However, two individuals commented generally in favor of focusing additional attention and funds on reducing impaired driving. Another individual commented that grant funds should be used for placing alcohol impairment awareness messages such as ''Ride Straight, Drive Straight'' on billboards near establishments serving alcohol. Nothing in the final rule would preclude a State from using section 2010 grant funds in that manner, provided those efforts are part of the State's motorcyclist safety training and motorcyclist awareness programs. The rule provides States broad discretion to determine how best to use the section 2010 grant funds for their motorcyclist safety training and awareness programs.

To demonstrate compliance with this criterion and with the *Reduction of Fatalities and Accidents Involving Impaired Motorcyclists* criterion, the NPRM proposed that a State would provide a copy of its law or regulation defining impairment, and ''impaired'' would refer to alcohol-or drug-impaired as defined by State law, provided that the State's legal alcohol-impairment level does not exceed .08 BAC. The agency received no comments related to this proposal. However, to reduce burdens on States submitting applications under these criteria, the agency will accept either a copy of a State's law or regulation defining impairment *or the legal citation(s) to the State's law or regulation defining impairment*. A State seeking to apply under the *Impaired Driving Program or Reduction of Fatalities and Accidents Involving Impaired Motorcyclists* criteria should note that if its legal alcohol-impairment level exceeds .08 BAC, it is not eligible to receive a grant under these criteria. The agency made changes in the rule to clarify this point and to permit a State to provide the legal citation(s) to the State's law or regulation defining impairment or a copy of its law or regulation defining impairment.

C. Comments Regarding Administrative Issues

Section 2010 specifies that a State receiving grant funds under this program must ''maintain its aggregate expenditures from all other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures'' in fiscal years 2003 and 2004. The Utah Department of Public Safety stated that this language may lead a State to believe that expenditures for programs funded with other NHTSA funds must be maintained and requested that NHTSA specify that the maintenance of effort provision applies only to ''non-NHTSA sources'' of funds. We decline to do so. By its terms, the maintenance of effort provision applies to all sources of funds for motorcyclist safety training programs and motorcyclist awareness programs, including NHTSA funds. If Congress had intended otherwise, it would have so specified in the statutory language.

Section 2010 of SAFETEA–LU requires NHTSA to make grants to States but includes a provision permitting a State receiving a grant under this program to suballocate funds to a non-profit organization incorporated in the State to carry out grant activities under the program. The MRF expressed support for the

suballocation of grant funds to non-profit organizations. One individual commented that grant money should be offered to Motorcycle Rights Organizations (MROs) to help offset the costs to the MROs for their established motorcyclist awareness programs. The suballocation provision allows a State to suballocate grant funds to an MRO under the grant program, provided it is a nonprofit organization incorporated in that State.

The Tennessee Department of Public Safety commented that a grant under this program ''will be much easier * * * for state organizations to administer and operate if it is a 'flow Thru' type grant'' rather than a grant requiring contracts. The Tennessee Department of Public Safety asserted that ''flow thru'' grants facilitate faster set up and implementation, whereas contract bidding is time consuming. The agency interprets this comment as a request that grant funds be awarded directly to non-profit organizations to carry out grant activities, eliminating the need for States to suballocate funds. SAFETEA–LU specifies that grants are to be made to States, and the agency has no discretion to deviate from this provision. The suballocation provision provides flexibility to the States, should they choose to make use of it.

One individual commented that grant money should be used for entry-level training motorcycles designed for beginners. Consistent with the statutory language, the NPRM provided discretion to States to determine how best to use the section 2010 grant funds for their motorcyclist safety training programs. In particular, the statutory language specifies the procurement or repair of practice motorcycles as an eligible use of funds. The agency believes Congress intended that States purchase or repair motorcycles as determined by a State's training needs. The final rule does not include a requirement that States may purchase motorcycles only of a particular size. (However, purchases must comply with applicable Office of Management and Budget cost principles—OMB Circular A–87 if a State makes a purchase and OMB Circular A–122 if a non-profit organization receiving a suballocation makes a purchase).

VI. Statutory Basis for This Action

This final rule implements the grant program created by section 2010 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59).

VII. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This rule was not reviewed by the Office of Management and Budget under Executive Order 12866.

The rule is not considered to be significant within the meaning of E.O. 12866 or the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034 (February 26, 1979)).

The rule does not affect amounts over the significance threshold of $100 million each year. The rule sets forth application procedures and showings to be made to be eligible for a grant. The funds to be distributed under the application procedures developed in this rule are well below the annual threshold of $100 million, with authorized amounts of $6 million in each of FYs 2006–2008 and $7 million in FY 2009.

The rule does not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule does not create an inconsistency or interfere with any actions taken or planned by other agencies. The rule does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Finally, the rule does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

In consideration of the foregoing, the agency has determined that this rule is not economically significant. The impacts of the rule are minimal and a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a).) No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that an action will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rule under the Regulatory Flexibility Act. States are the recipients of funds awarded under the section 2010 program and they are not considered to be small entities under the Regulatory Flexibility Act. Therefore, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999), requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may

not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local governments in the process of developing the proposed regulation. The agency also may not issue a regulation with federalism implications that preempts a State law without consulting with State and local officials.

The agency has analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that the final rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. Moreover, the final rule will not preempt any State law or regulation or affect the ability of States to discharge traditional State government functions.

D. Executive Order 12988 (Civil Justice Reform)

This final rule does not have any preemptive or retroactive effect. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

E. Paperwork Reduction Act

There are reporting requirements contained in the final rule that are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*), the agency is submitting these requirements to OMB for approval.

F. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with a base year of 1995 (about $118 million in 2004 dollars)). This final rule does not meet the definition of a Federal mandate because the resulting annual State expenditures will not exceed the $100 million threshold and because there is no Federal mandate. This program is voluntary and States that choose to apply and qualify will receive grant funds.

G. National Environmental Policy Act

NHTSA has reviewed this rule for the purposes of the National Environmental Policy Act. The agency has determined that this final rule will not have a significant impact on the quality of the human environment.

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

The agency has analyzed this final rule under Executive Order 13175, and has determined that this rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

I. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://dms.dot.gov.*

List of Subjects in 23 CFR Part 1350

Grant programs—transportation, Highway safety, Motor vehicles—motorcycles.

■ In consideration of the foregoing, the agency amends chapter III of title 23 of the Code of Federal Regulations by adding part 1350 to read as follows:

PART 1350—INCENTIVE GRANT CRITERIA FOR MOTORCYCLIST SAFETY PROGRAM

Sec.
1350.1 Scope.
1350.2 Purpose.
1350.3 Definitions.
1350.4 Qualification requirements.
1350.5 Application requirements.
1350.6 Awards.
1350.7 Post-award requirements.
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.

§ 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.

M*otorcyclist awareness program* means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

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 motorcycles—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:

(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

(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 the State's proportionate share of available funds, before the end of that fiscal year. If insufficient funds are available to distribute the minimum amount ($100,000) to all qualifying States, all States would receive an equal reduced share. Project approval and the contractual obligation of the Federal Government to provide grant funds, is limited to the amount of funds released.

§ 1350.7 Post-award requirements.

(a) Within 30 days after notification of award but in no event later than September 12 of each year, a State must submit electronically to the agency a Program Cost Summary (HS Form 217) obligating funds to the Motorcyclist Safety grant program.

(b) Each fiscal year until all grant funds have been expended, a State must:

(1) Document how it intends to use the motorcyclist safety grant funds in the Highway Safety Plan (or in an amendment to that plan), required to be submitted by September 1 each year under 23 U.S.C. 402; and

(2) Detail section 2010 grant program accomplishments in the Annual Performance Report required to be submitted under the regulation implementing 23 U.S.C. 402.

§ 1350.8 Use of grant funds.

(a) *Eligible uses of grant funds.* A State may use grant funds only for motorcyclist safety training and motorcyclist awareness programs, including—

(1) Improvements to motorcyclist safety training curricula;

(2) Improvements in program delivery of motorcycle training to both urban and rural areas, including—

(i) Procurement or repair of practice motorcycles;

(ii) Instructional materials;

(iii) Mobile training units; and

(iv) Leasing or purchasing facilities for closed-course motorcycle skill training;

(3) Measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(4) Public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the ''share-the-road'' safety messages developed using Share-the-Road model language required under section 2010(g) of SAFETEA–LU, Public Law 109–59.

(b) *Suballocation of funds.* A State that receives a grant may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out grant activities under this part.

(c) *Matching requirement.* The Federal share of programs funded under this part shall be 100 percent.

BILLING CODE 4910–59–P

Appendix A to Part 1350—Certifications Specific to Grant Criteria for which a State Previously Received a Grant Award

(USE THIS FORM ONLY FOR GRANT CRITERIA FOR WHICH A STATE RECEIVED A GRANT IN A PRIOR FISCAL YEAR AND THAT HAVE REMAINED UNCHANGED. DO NOT USE THIS FORM FOR FIRST YEAR APPLICATIONS.)

State: _____ Fiscal Year: _____

Place an "x" in the box corresponding to each criterion for which the State received a grant in a prior fiscal year if the State made no changes to the materials previously submitted to and approved for award by NHTSA. For all other criteria or if the State made changes to the materials previously submitted to and approved for award by NHTSA, submit the required documentation.

I hereby certify that the State (or Commonwealth) of _____:

- ***Motorcycle Rider Training Courses*** **criterion—second and subsequent Fiscal Years**

  ☐ has made no changes to the materials previously submitted to and approved for award by NHTSA under this criterion and the State or Commonwealth continues to offer its motorcycle rider training courses in the same manner.

- ***Motorcyclists Awareness Program*** **criterion—second and subsequent Fiscal Years**

  ☐ has made no changes to the materials previously submitted to and approved for award by NHTSA under this criterion and the State or Commonwealth continues to implement its motorcyclists awareness program in the same manner.

- ***Impaired Driving Program*** **criterion—second and subsequent Fiscal Years**

  ☐ has made no changes to the materials previously submitted to and approved for award by NHTSA under this criterion and the State or Commonwealth continues to implement its impaired driving program in the same manner.

- ***Use of Fees Collected from Motorcyclists for Motorcycle Programs*** **criterion (Law State)—second and subsequent Fiscal Years**

  ☐ has made no changes to the law or regulation previously submitted to and approved for award by NHTSA under this criterion 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.

_____ _____

Governor's Highway Safety Representative Date

Appendix B to Part 1350—General Certifications

State: _____ Fiscal Year: _____

(THIS FORM IS REQUIRED EACH YEAR AND APPLIES TO ALL GRANT CRITERIA)

I hereby certify that the State (or Commonwealth) of _____:

- will use the motorcyclist safety grant funds only for motorcyclist safety training and motorcyclist awareness programs, in accordance with the requirements of section 2010(e) of SAFETEA-LU, Pub. L. 109-59;
- will administer the motorcyclist safety grant funds in accordance with 49 CFR Part 18 and OMB Circular A-87; and
- will maintain its aggregate expenditures from all other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in fiscal years (FY) 2003 and 2004. (A State may use either Federal or State fiscal years).

_____

Governor's Highway Safety Representative

Date: _____

Issued on: July 14, 2006.

Nicole R. Nason,

Administrator.

[FR Doc. 06–6354 Filed 7–18–06; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250, 251, and 280

RIN 1010–AD23

Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)—Recovery of Costs Related to the Regulation of Oil and Gas Activities on the OCS

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is implementing regulations which impose new fees to process certain plans, applications, and permits. The service fees will offset MMS's costs of processing these plans, applications, and permits.

DATES: *Effective Date:* This regulation becomes effective on September 1, 2006.

FOR FURTHER INFORMATION CONTACT: Martin Heinze, Program Analyst, Offshore Minerals Management, Office of Planning, Budget and International Affairs at (703) 787–1010.

SUPPLEMENTARY INFORMATION:

Background: Federal agencies are generally authorized to recover the costs of providing services to non-Federal entities through the provisions of the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701. The Act requires implementation through rulemaking. There are several policy documents that provide MMS guidance on the process of charging applicants for service costs. The governing language concerning cost recovery can be found in OMB Circular No. A–25 which states in part, "The provisions of this Circular cover all Federal activities that convey special benefits to recipients beyond those accruing to the general public. * * * When a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit, or the market price). * * * The general policy is that user charges will be instituted through the promulgation of regulations." The Department of the Interior (DOI) Manual mirrors this policy (330 DM 1.3 A.).

In this rulemaking, "cost recovery" means reimbursement to MMS for its costs of performing a service by charging a fee to the identifiable applicant/beneficiary of the service. Further guidance is provided by Solicitor's Opinion M–36987, "BLM's Authority to Recover Costs of Minerals Document Processing" (December 5, 1996). As explained in that Solicitor's Opinion, some costs, such as the costs of programmatic environmental studies and programmatic environmental assessments in support of a general agency program are not recoverable because they create an "independent public benefit" rather than a specific benefit to an identifiable recipient.