

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
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50 CFR	* *
600.508	-0329
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50 CFR Chapter VI

PART 600—MAGNUSON ACT PROVISIONS

3. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

4. In § 600.508, paragraph (f)(2)(i)(D) is revised to read as follows:

§ 600.508 Fishing operations.

- * * *
- (f) * * *
- (2) * * *
- (i) * * *

(D) Location(s) from which the fish received were harvested and the name and official number of the vessel of the United States that harvested the fish.

* * *

[FR Doc. 97-16772 Filed 6-25-97; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Parts 1200 and 1205

[NHTSA Docket No. 93-55, Notice 5]

RIN 2127-AG69

Uniform Procedures for State Highway Safety Programs

AGENCY: National Highway Traffic Safety Administration and Federal Highway Administration, DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This document establishes new uniform procedures governing the implementation of State highway safety programs. It amends existing requirements by providing a more flexible system under which States are responsible for setting highway safety goals and implementing programs to achieve those goals.

This document is being issued as an interim final rule to provide guidance to

the States before the start of fiscal year 1998. The agencies request comments on the rule. The agencies will publish a notice responding to the comments received and, if appropriate, will amend provisions of the regulation.

DATES: This interim final rule becomes effective June 26, 1997. Comments on this interim rule are due no later than August 11, 1997.

ADDRESSES: Comments should refer to the docket number set forth above and be submitted (preferably in 10 copies) to the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: In NHTSA, Marlene Markison, Office of State and Community Services, 202-366-2121; John Donaldson, Office of the Chief Counsel. In FHWA, Mila Plosky, Office of Highway Safety, 202-366-6902; Michael Falk, 202-366-0834.

SUPPLEMENTARY INFORMATION:

A. Statutory Requirements

The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula grant program to improve highway safety in the States. As a condition of the grant, the Act provides that the States must meet certain requirements contained in 23 U.S.C. 402.

Section 402(a) requires each State to have a highway safety program, approved by the Secretary of Transportation, which is designed to reduce traffic crashes and the deaths, injuries, and property damage resulting from those crashes. Section 402(b) sets forth the minimum requirements with which each State's highway safety program must comply. For example, the Secretary may not approve a program unless it provides that the Governor of the State is responsible for its administration through a State highway safety agency which has adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary. Additionally, the program must authorize political subdivisions of the State to carry out local highway safety programs and provide a certain minimum level of funding for these local programs each fiscal year. The enforcement of these and other continuing requirements is entrusted to the Secretary and, by delegation, to the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) (the agencies).

When it was originally enacted in 1966, the Highway Safety Act required the agencies to establish uniform standards for State highway safety programs to assist States and local communities in implementing their highway safety programs. Eighteen such standards were established and, until 1976, the Section 402 program was directed principally toward achieving State and local compliance with these standards. Over time, State highway safety programs matured and, in 1976, the Highway Safety Act was amended to provide for more flexible implementation of the program. States were no longer required to comply with every uniform standard or with each element of every uniform standard. As a result, the standards became more like guidelines for use by the States, and management of the program shifted from enforcing standards to using the standards as a framework for problem identification, countermeasure development, and program evaluation. In 1987, Section 402 of the Highway Safety Act was amended, formally changing the standards to guidelines.

Another amendment to the Highway Safety Act required the Secretary to determine, through a rulemaking process, those programs "most effective" in reducing crashes, injuries, and deaths, taking into account "consideration of the States having a major role in establishing (such) programs." The Secretary was authorized to revise the rule from time to time. The Act, as amended, provides that only those programs established under the rule as most effective in reducing crashes, injuries and deaths would be eligible for Federal financial assistance under the Section 402 program. In accordance with this provision, the agencies have identified, over time, nine such programs, the "National Priority Program areas." These programs appear in a rule at 23 CFR part 1205, discussed further below, under the heading "Current Regulations."

B. Current Regulations

1. Part 1200

In recent years, the agencies have administered the Section 402 program in accordance with an implementing regulation, Uniform Procedures for State Highway Safety Programs (23 CFR part 1200). That regulation, portions of which are amended by today's action, contains detailed procedures governing the content and Federal approval of a "Highway Safety Plan," to be submitted each fiscal year by the States. In particular, under the regulation each

State's highway safety plan is required to contain a "problem identification summary," highlighting highway safety problems in the State, describing countermeasures planned to address those problems, and providing supporting statistical crash data. Additionally, in the highway safety plan, the State must describe and justify program areas to be funded, discuss planning and administration and training needs, and provide certain certifications and financial documentation.

The regulation requires Federal approval for proposed expenditures within program areas, both under the State's initially submitted Highway Safety Plan and subsequently for any proposed changes in expenditures exceeding ten percent of the total amount in a given program area. Federal approval is also required, on a year-by-year basis, if a State wishes to continue a NHTSA project beyond three years. Such approval is conditioned on a showing that the project has demonstrated great merit or the potential for significant long-range benefits, and is subject to increased cost assumption by the State. The regulation provides the agencies with broad discretion to approve, conditionally approve, or disapprove a highway safety plan or any portion of the document. Agency approving officials are centrally involved in an evaluation of whether the highway safety plan establishes the existence of bona fide highway safety problems, identifies countermeasures and projects reasonably calculated to address the problems, and proposes an efficient use of Federal funds.

Under the regulation, States are required to submit a comprehensive and detailed annual evaluation report. The annual report is required to contain a three-to-five page statewide overview of highway safety accomplishments, a description of projects conducted and costs incurred by program area, a discussion of legislative and administrative accomplishments, and a report on the status of remedial actions.

The submission and approval requirements under the current Part 1200 place a greater emphasis on Federal oversight of State highway safety programs than the agencies believe is necessary or desirable at this time. State highway safety programs have matured substantially since the inception of the Section 402 program. Accordingly, under the heading "Changes to Regulation," the agencies discuss amendments to these portions of the regulation, made by today's notice, that provide the States more flexibility.

Part 1200 contains other provisions, such as those concerning the apportionment and obligation of Federal funds, financial accounting (including submission of vouchers, program income, and the like), and closeout of each year's program. These provisions remain essentially unchanged by today's action.

2. Part 1205

Today's action also amends portions of another regulation, 23 CFR part 1205, Highway Safety Programs; Determinations of Effectiveness. Part 1205 lists each highway safety program area that the agencies have determined, in accordance with the Highway Safety Act, to be most effective in reducing crashes, injuries, and deaths. The agencies have, through a series of rulemaking actions, as discussed above, identified these program areas as "National Priority Program Areas." There are currently nine priority program areas: Alcohol and Other Drug Countermeasures, Police Traffic Services, Occupant Protection, Traffic Records, Emergency Medical Services, Motorcycle Safety, Roadway Safety, Pedestrian and Bicycle Safety, and Speed Control.

Part 1205 currently provides for expedited funding approval of programs developed in any of the National Priority Program Areas. Part 1205 provides that programs developed under other program areas may also be funded, but they must be approved under a more detailed approval process. As further described under the heading "Changes to Regulation," today's notice provides States with more flexibility also with regard to their ability to fund these programs.

C. The Pilot Program

In the years since the original enactment of Section 402, States have developed the infrastructure, tools, and resources necessary to conduct effective highway safety programs. Increasingly, States have expressed interest in assuming more responsibility for the planning and direction of their programs, with a decreased emphasis on the detailed Federal oversight that exists under the current regulation. Just as Congress earlier recognized the desirability of changing the mandatory standards to more flexible guidelines, the agencies believe it is appropriate at this time to provide the States with added flexibility to set their own goals, define their own performance measures, and determine the best means of accomplishing their goals, subject to the existing statutory parameters requiring overall program approval.

Consistent with efforts to relieve burdens on the States under the President's regulatory reform initiative, the agencies took the first step in providing more flexibility for the States by establishing a pilot program in fiscal years 1996 and 1997 for highway safety programs conducted under Section 402. The pilot program was announced in the **Federal Register** on September 12, 1995 (60 FR 47418) for fiscal year 1996 and on September 6, 1996 (61 FR 46895) for fiscal year 1997.

1. Procedures

The pilot program waived the requirement for State submission and Federal approval of the Highway Safety Plan required under part 1200 for those States that chose to participate, and instead provided for a benchmarking process by which the States set their own highway safety goals and performance measures. Under the benchmarking process, participating States were required to submit a planning document and a benchmarking report, rather than the previously required highway safety plan. The planning document, which described how Federal funds would be used, consistent with the guidelines, priority areas, and other requirements of Section 402, was required to be approved by the Governor's Representative for Highway Safety.

The States were required to submit the benchmark report to the agencies for approval by August 1 prior to the fiscal year for which the highway safety program was to be conducted.

The benchmark report was required to contain three components: a Process Description, Performance Goals, and a Highway Safety Program Cost Summary. Under the Process Description component, States were required to describe the processes used to identify highway safety problems, establish performance goals, and develop the programs and projects in their plans. Under the Performance Goals component, States were required to identify highway safety performance goals (developed through a problem identification process) and to identify performance measures to be used to track progress toward each goal. Under the Highway Safety Program Cost Summary component, States submitted HS Form 217, a financial accounting form that was previously required under part 1200.

The focus of the Federal review and approval process under the pilot program shifted away from a review of the substantive details of the program, on a project-by-project basis, as required under part 1200. Instead, the process

focused on verification that the State had committed itself, through a performance-based planning document approved by the Governor's Representative for Highway Safety and a benchmark report, to a highway safety program that targeted identified State highway safety concerns. The agencies waived the requirement under part 1200 that States seek approval for changes in expenditures exceeding ten percent in a given program area.

Under the pilot program, the requirements governing the annual evaluation report were changed to accommodate the shift to a performance-based process. States were required to report on their progress toward meeting goals, using performance measures identified in the benchmark report, and the steps they took toward meeting goals. States were also required to describe State and community projects funded during the year.

In other respects, the pilot program followed the requirements of part 1200 without change. Provisions concerning the submission of certifications and assurances, the apportionment and obligation of Federal funds, financial accounting (including submission of vouchers, program income, and the like), and the closeout of each year's program continued to apply to the pilot program.

The **Federal Register** notices announcing the pilot program explained that, if the pilot program was successful, the agencies expected to revise the regulations governing State highway safety programs to adopt the pilot procedures permanently.

2. Experience Under the Pilot Program

Over the two-year period during which the pilot program has been in place, it has met with support from States. Sixteen States participated in the pilot program during fiscal year 1996, and 41 States, the District of Columbia, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands participated during fiscal year 1997. Most participating States expressed enthusiasm about the goal-setting process used in the pilot program, and felt a greater sense of "ownership" of their highway safety programs under the pilot procedures. Prior to their participation in the pilot program, many of these States had already adopted performance measures in their State budgeting and management processes, which eased the transition for these States to a performance-based process under the pilot program. The majority of participating States reported that the

pilot program procedures resulted in reduced Federally-imposed burdens and increased State flexibility in administering their highway safety programs.

In December 1996, the 16 States that participated in the pilot program during its initial year submitted their annual evaluation reports regarding their highway safety accomplishments under the pilot program. Overall, the reports revealed improvements in data systems, goal-setting, and project selection. They also reported reductions in costs and time expended for the administration of the program, and a broadening of highway safety partnerships. In addition, the reports revealed that pilot States are making steady progress toward achieving established goals. Experience to date confirms that the pilot program has resulted in the implement of successful highway safety programs, consistent with national highway safety goals and Federal goals for regulatory reform, streamlining procedures, and improvements in performance.

In January 1997, during the second year of the pilot program, the agencies held a meeting that was attended by representatives of all States and territories. State representatives identified concerns and offered suggestions in an effort to make further improvements in the pilot program procedures. States generally expressed a desire for more flexibility, such as by extending the due date for submission of application documents, permitting a multi-year planning process, and accommodating short and long range goals in the goal-setting process. States agreed that, if progress toward meeting goals does not occur in a State, both State and Federal officials should cooperate to develop an improvement plan for the State.

D. Changes to the Regulation

1. In General

Based on the success of the pilot program during its nearly two years of operation, today's interim final rule revises the regulations governing State highway safety programs to implement the pilot procedures. It also addresses issues raised during the January 1997 meeting. It extends the due date for submission of application documents from August 1 to September 1, which is a change in both the pilot procedures and the procedures under part 1200. The interim final rule accommodates the States' desire for flexibility to plan and set goals covering time periods that best meet State needs. It also provides for a joint effort by Federal and State

officials to develop an improvement plan, where a State fails to progress to meet goals. States are free at any time to request assistance or advice from the agencies' field offices, which remain ready to devote available resources as needed.

This interim final rule replaces the existing procedures governing the preparation, submission, review, and approval of State Highway Safety Plans, contained in the Uniform Procedures for State Highway Safety Programs (23 CFR part 1200) and discussed generally under the heading "Part 1200," above, with new procedures that are modeled after those used in the pilot program. The interim final rule requires the States to submit information detailing their highway safety programs in the same format as required under the pilot program. However, the rule makes some adjustments to the pilot program procedures, as discussed above.

In addition, the interim final rule makes some changes in terminology from that used in the pilot program. The more descriptive terms "performance plan" and "highway safety plan" replace the terms "benchmark report" and "planning document," which were used in the pilot program to describe State highway safety goals and planned activities. However, the functions of these documents remain essentially unchanged from those existing under the pilot program, as described under the heading "The Pilot Program." (Retention of the familiar term "highway safety plan" is for convenience, and does not convey that procedures predating the pilot program continue to apply to that document.) States may choose (and are encouraged) to prepare their Performance Plan and Highway Safety Plan as comprehensive documents which also include goals and activities for highway safety programs other than the Section 402 program (such as Federal incentive grants). If this is done, the Highway Safety Plan should identify those programs or activities funded from other sources in a separate section or should identify them clearly in some other manner.

Under the interim final rule, the nature of the Federal approval process has been changed. Instead of approving a highway safety plan based on a project-by-project justification, the agencies instead will review the State's highway safety program as a whole, to verify that the State has developed a goal-oriented highway safety program that has been approved by the Governor's Representative for Highway Safety, and that identifies the State's highway safety problems, establishes

goals and performance measures to effect improvements in highway safety, and describes activities designed to achieve those goals. When establishing performance measures, States may wish to consult the "Examples of Performance Measures" section of the Pilot State Highway Safety Program Notice of Waiver published in the **Federal Register** on September 5, 1996 (61 FR 46895).

The agencies have retained the requirement, contained in both part 1200 and the pilot procedures, that States must submit an annual report. However, the interim final rule changes the contents of the annual report from those required by part 1200 (described under the heading "Part 1200"). Under the interim final rule, the States are required to describe their progress in meeting State highway safety goals, using performance measures identified in the Performance Plan, and the projects and activities funded during the fiscal year. They must also include in these reports an explanation of how these projects and activities contributed to meeting the State's highway safety goals.

The agencies believe that the performance-based process, which places the States in charge of determining the best means of improving traffic safety within their borders, is an effective means of ensuring the proper identification of highway safety problems and the efficient deployment of resources to address those problems. Experience under the pilot program confirms that States are uniquely qualified to assess their highway safety deficiencies, and that they are able to effectively address these deficiencies by establishing goals and using performance measures, without the need for detailed Federal review at the project level.

No substantive changes have been made to provisions relating to the apportionment and obligation of Federal funds, financial accounting, and the like. These sections of the regulation are being republished in this notice simply for ease of reference.

2. Highlighted Provisions

In order to complete the change to procedures modeled after those of the pilot program, and to improve clarity and organization, the agencies have made certain other changes to part 1200. For example, the requirement that States must seek Federal approval before implementing program changes (including changes exceeding ten percent of the funding in a program area), has been replaced with a simple notification requirement in the interim

final rule, consistent with the pilot program procedures. This change reduces administrative burdens and increases the States' ability to make efficient adjustments to their programs. The section on equipment has been simplified in the interim final rule, making it easier to follow. There are no longer separate definitions for major and non-major equipment since, for most purposes, all equipment used in the Section 402 program is treated alike. Instead, within the section on equipment, a paragraph concerning major purchases and dispositions identifies the threshold at which Federal approval is necessary.

The agencies have made some structural refinements throughout the regulation to improve clarity or to include useful information or cross-references. For example, the interim final rule changes, deletes, or streamlines some definitions, where they are no longer needed or where the text of the proposed rule is sufficiently clear without the definition. The interim final rule also sets forth the minimum statutory requirements for approval of a state highway safety program (responsibility of the Governor for program administration, participation by political subdivisions, access for handicapped persons, and programs for use of safety belts). These elements have been longstanding requirements of the Section 402 program under the Highway Safety Act, and are restated in the interim final rule for convenience. Additionally, the interim final rule includes a cross-reference to sanctions required by the Highway Safety Act to be imposed for failure to have or to implement a highway safety program, also for convenience.

The agencies have changed the definition of "approving official," due to a change in the appropriation process for the Section 402 program. In fiscal year 1997, Congress placed all Section 402 funding under NHTSA's appropriation, while retaining separate authorizing legislation for the Section 402 program for both NHTSA and the FHWA. (Previously, NHTSA and the FHWA had separate appropriations as well as authorizations for the Section 402 program.) As a result, NHTSA has assumed the lead responsibility for administration of the Section 402 program, though the agencies will continue to coordinate many decisions. The proposed definition reflects this new relationship.

The agencies have deleted the requirement that States must seek Federal approval and assume a greater share of project costs prior to continuing a NHTSA-funded project or activity

beyond three years. Over the years, this requirement has been used to ensure that NHTSA funds are predominantly used as "seed money," to assist states with the start-up of innovative new projects whose implementation would later be taken over by the State. With the change to a performance-based program, the agencies no longer are involved in project-by-project review, and this project-level approval provision is no longer appropriate. However, States are encouraged to develop their own "seed money" and cost sharing requirements for local highway safety projects and activities, to stimulate the continued introduction of innovative new solutions to highway safety problems at the local level. The agencies are pleased to note that several States (e.g., Florida, Georgia, and Mississippi) have developed and are implementing such requirements.

Finally, this interim final rule makes conforming changes to the funding procedures for National Priority Program Areas and other program areas, appearing in 23 CFR part 1205, Highway Safety Programs; Determinations of Effectiveness, consistent with the agencies' objectives of placing more decisionmaking responsibilities in the hands of the States. With these changes, States can now pursue activities in program areas identified either by the agencies as National Priority Program areas or by the States as State priorities. In pursuing activities under the latter category, States will be required to identify programs that address problems of State concern and for which effective countermeasures have been identified. The current regulation specifies a formal process for approval of activities under program areas identified by the States and requires detailed Federal review. Under this interim final rule, States are given more flexibility in the processes they may use to identify program areas that are State priorities, and the level of Federal oversight has been reduced.

A number of other requirements apply to the Section 402 program, including those appearing in other parts of Chapter II of Title 23 CFR, and such government-wide provisions as the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR part 18) and the Office of Management and Budget (OMB) Circulars containing cost principles and audit requirements (e.g., OMB Circulars A-21, A-87, A-122, A-128, and A-133). These provisions are unaffected by today's notice, and continue to apply in accordance with their terms.

E. Regulatory Analyses and Notices

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. This action increases the flexibility of the States by implementing a performance-based process under which the States are responsible for setting highway safety goals, in accordance with their individual needs. In other respects, this action is consistent with the procedures of a common rule for the administration of grants to State and local governments (49 CFR part 18) which has as its basis the principles of Federalism, and which recognizes that States possess unique constitutional authority, resources, and competence to administer national grant programs, and provides for the application of State laws and procedures to many aspects of grant administration.

Executive Order 12778 (Civil Justice Reform)

This rule does not have any preemptive or retroactive effect. It merely revises existing requirements imposed on States to afford States more flexibility in implementing a grant program. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agencies have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. This rule does not impose any additional burden on the public, but rather reduces burdens and improves the flexibility afforded to States in implementing highway safety programs. This action does not affect the level of funding available in the highway safety program. Accordingly, neither a Regulatory Impact Analysis nor a full Regulatory Evaluation is required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the agencies have evaluated the effects of

this action on small entities. We hereby certify that this action will not have a significant economic impact on a substantial number of small entities. States are the recipients of any funds awarded under the Section 402 program. The preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

The requirement relating to this action, that each State must submit certain documents to receive Section 402 grant funds, is considered to be an information collection requirement, as that term is defined by OMB. This information collection requirement has been previously submitted to and approved by OMB, pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The requirement has been approved through September 30, 1998; OMB Control No. 2127-0003.

Environmental Impacts

The agencies have reviewed this action for the purpose of compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and have determined that it will not have a significant effect on the human environment.

F. Interim Final Rule

This notice is published as an interim final rule, without prior notice and opportunity to comment. Because this regulation relates to a grant program, the requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are not applicable. Moreover, even if the notice and comment provisions of the APA did apply, the agencies believe that there is good cause for finding that providing notice and comment in connection with this rulemaking action is impracticable, unnecessary, and contrary to the public interest, since it would delay the availability of guidance to States concerning new procedures applicable to fiscal year 1998 highway safety programs under 23 U.S.C. 402. States require this information well in advance of the start of the fiscal year to which the highway safety program applies in order to comply with application procedures and to allow sufficient time for program planning activities. This finding is further supported because the amendments made in this interim final rule are consistent with the provisions of a pilot program whose procedures are already known to the States. The pilot program is in its second year of operation, with most States participating, and its procedures were closely coordinated

with the States prior to the start of the pilot program. For these reasons, the agencies also believe that there is good cause to make the rule effective immediately upon publication.

As an interim final rule, this regulation is fully in effect and binding upon its effective date. No further regulatory action by the agencies is necessary to make the rule effective. However, in order to benefit from comments which interested parties and the public may have, the agencies are requesting that comments be submitted to the docket for this notice. All comments submitted in response to this notice, in accordance with the procedures outlined below, will be considered by the agency. Following the close of the comment period, the agencies will publish a notice responding to the comments and, if appropriate, the agencies will amend the provisions of this rule.

G. Comments to the Docket

The agencies are providing a 45-day comment period for interested parties to present data, views, and arguments concerning this notice. The agencies invite comments on the issues raised in this notice and any other issues commenters believe are relevant to this action. Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Necessary attachments may be appended to these submissions without regard to the 15-page limit.

All comments received by the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Following the close of the comment period, the agencies will publish a notice responding to the comments and, if appropriate, the agencies will amend the provisions of this rule. The agencies will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified of receipt of their comments by the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 93-55, Notice 5 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

List of Subjects in 23 CFR Parts 1200 and 1205

Grant programs—transportation, Highway safety.

For the reasons set out in the preamble, title 23, chapter II of the Code of Federal Regulations is amended as set forth below.

1. Subchapter A, part 1200, is revised to read as follows:

SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Subpart A—General

Sec.

- 1200.1 Purpose.
- 1200.2 Applicability.
- 1200.3 Definitions.

Subpart B—Application, Approval, and Funding of the Highway Safety Program

- 1200.10 Application.
- 1200.11 Special funding conditions.
- 1200.12 Due date.
- 1200.13 Approval.
- 1200.14 Apportionment and obligation of Federal funds.

Subpart C—Implementation and Management of the Highway Safety Program

- 1200.20 General.
- 1200.21 Equipment.
- 1200.22 Changes.
- 1200.23 Vouchers and project agreements.
- 1200.24 Program income.
- 1200.25 Improvement plan.
- 1200.26 Non-compliance.
- 1200.27 Appeals.

Subpart D—Closeout

- 1200.30 Expiration of the right to incur costs.
- 1200.31 Extension of the right to incur costs.
- 1200.32 Final voucher.
- 1200.33 Annual report.
- 1200.34 Disposition of unexpended balances.
- 1200.35 Post-grant adjustments.
- 1200.36 Continuing requirements.

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

Subpart A—General

§ 1200.1 Purpose.

This part establishes uniform application, approval, implementation, and closeout procedures for State highway safety programs authorized under 23 U.S.C. 402.

§ 1200.2 Applicability.

The provisions of this part apply to highway safety programs conducted by States under 23 U.S.C. 402.

§ 1200.3 Definitions.

As used in this subchapter—

Approving Official means a Regional Administrator of the National Highway Traffic Safety Administration, with the concurrence of a Division Administrator of the Federal Highway Administration as necessary.

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

Contract authority means the statutory language that authorizes the agencies to incur an obligation without the need for a prior appropriation or further action from Congress and which, when exercised, creates a binding obligation on the United States for which Congress must make subsequent liquidating appropriations.

Equipment means any tangible personal property acquired for use under the State's approved highway safety program.

FHWA means the Federal Highway Administration.

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

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

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

NHTSA means the National Highway Traffic Safety Administration.

Program area means a National Priority Program Area identified in § 1205.3 of this chapter or a program area identified by the State in the highway safety plan as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified.

Program income means gross income received by the State or any of its

subgrantees or contractors that is directly or indirectly generated by a Federally-supported project during the project performance period.

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

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

Subpart B—Application, Approval, and Funding of the Highway Safety Program

§ 1200.10 Application.

Each fiscal year, a State's application for funds for its highway safety program shall consist of the following components:

(a) A Performance Plan, containing the following elements:

(1) A list of objective and measurable highway safety goals, within the National Priority Program Areas and other program areas, based on highway safety problems identified by the State during the processes under paragraph (a)(2) of this section. Each goal must be accompanied by at least one performance measure that enables the State to track progress, from a specific baseline, toward meeting the goal (e.g., a goal to "increase safety belt use from XX percent in 19__ to YY percent in 20__," using a performance measure of "percent of restrained occupants in front outboard seating positions in passenger motor vehicles").

(2) A brief description of the processes used by the State to identify its highway safety problems, define its highway safety goals and performance measures, and develop projects and activities to address its problems and achieve its goals. In describing these processes, the State shall identify the participants in the processes (e.g., highway safety committees, community and constituent groups), discuss the strategies for project or activity selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted.

(b) A Highway Safety Plan, approved by the Governor's Representative for Highway Safety, describing the projects and activities the State plans to implement to reach the goals identified in the Performance Plan. The Highway Safety Plan must, at a minimum, describe one year of activities.

(c) A Certification Statement, signed by the Governor's Representative for

Highway Safety, providing assurances that the State will comply with applicable laws and regulations, financial and programmatic requirements, and in accordance with § 1200.11 of this part, the special funding conditions of the Section 402 program.

(d) A Program Cost Summary (HS Form 217), completed to reflect the State's proposed allocations of funds (including carry-forward funds) by program area, based on the goals identified in the Performance Plan and the projects and activities identified in the Highway Safety Plan. The funding level used shall be an estimate of available funding for the upcoming fiscal year.

§ 1200.11 Special funding conditions.

The State's highway safety program under Section 402 shall be subject to the following conditions, and approval under § 1200.13 of this part shall in no event be deemed to waive these conditions:

(a) Responsibility of the Governor—The Governor of the State shall be responsible for the administration of the Section 402 program through a State highway safety agency that shall have adequate powers and be suitably equipped and organized to carry out the program.

(b) Participation by Political Subdivisions—Political subdivisions shall be authorized to carry out local highway safety programs, approved by the Governor, as a part of the State highway safety program, and at least 40 percent of all Federal funds provided under this part shall be used by or for the benefit of political subdivisions, in accordance with the provisions of part 1250 of this chapter.

(c) Access for Persons with Disabilities—Adequate and reasonable access shall be provided for the safe and convenient movement of persons with physical disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

(d) Use of Safety Belts—Programs shall be provided (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers and passengers in motor vehicles.

(e) Planning and Administration Costs—Funding and matching requirements for planning and administration costs shall be in accordance with the provisions of part 1252 of this chapter.

(f) Purchase and Disposition of Equipment—Major purchases and

dispositions of equipment shall require prior approval by the approving official, in accordance with the provisions of § 1200.21(d) of this part.

§ 1200.12 Due date.

Three copies of the application documents identified in § 1200.10 of this part must be received by the NHTSA regional office no later than September 1 preceding the fiscal year to which the documents apply. The NHTSA regional office will forward copies to NHTSA headquarters and the FHWA division office. Failure to meet this deadline may result in delayed approval and funding.

§ 1200.13 Approval.

(a) Upon receipt of application documents complying with the provisions of § 1200.10 and § 1200.11 of this part, the Approving Official will issue a letter of approval to the Governor and the Governor's Representative for Highway Safety.

(b) The approval letter identified in paragraph (a) of this section will contain the following statement:

We have reviewed (STATE)'s _____ fiscal year 19__ Performance Plan, Highway Safety Plan, Certification Statement, and Cost Summary (HS Form 217), as received on (DATE) _____. Based on these submissions, we find your State's highway safety program to be in compliance with the requirements of the Section 402 program. This determination does not constitute an obligation of Federal funds for the fiscal year identified above or an authorization to incur costs against those funds. The obligation of Section 402 program funds will be effected in writing by the NHTSA Administrator at the commencement of the fiscal year identified above. However, Federal funds reprogrammed from the prior-year Highway Safety Program (carry-forward funds) will be available for immediate use by the State on October 1. Reimbursement will be contingent upon the submission of an updated HS Form 217, consistent with the requirements of 23 CFR 1200.14(d), within 30 days after either the beginning of the fiscal year identified above or the date of this letter, whichever is later.

(c) If approval is withheld, for reasons of non-compliance with § 1200.10 or § 1200.11 of this part or other applicable law, the Approving Official shall identify in writing the specific area(s) of non-compliance which formed the basis for withholding approval.

§ 1200.14 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year the NHTSA Administrator shall, in writing, distribute funds available for obligation under Section 402 to the States and specify any

conditions or limitations imposed by law on the use of the funds.

(b) In the event that authorizations exist but no applicable appropriation act has been enacted by October 1 of a fiscal year the NHTSA and FHWA

Administrators shall, in writing, distribute a part of the funds authorized under Section 402 contract authority to ensure program continuity and shall specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of Section 402 funds, the NHTSA Administrator shall, in writing, promptly adjust the obligation limitation, and specify any conditions or limitations imposed by law on the use of the funds.

(c) The funds distributed under paragraph (a) or (b) of this section shall be available for expenditure by the states to satisfy the Federal share of expenses under the approved highway safety program, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing document.

(d)(1) Notwithstanding the provisions of paragraph (c) of this section, reimbursement of State expenses shall be contingent upon the submission of an updated HS Form 217, within 30 days after either the beginning of the fiscal year or the date of the written approval required under § 1200.13 of this part, whichever is later.

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

Subpart C—Implementation and Management of the Highway Safety Program

§ 1200.20 General.

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

§ 1200.21 Equipment.

(a) Title. Except as provided in paragraphs (e) and (f) of this section, title to equipment acquired under the Section 402 program will vest upon acquisition in the State or its subgrantee, as appropriate.

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

(c) *Management and disposition.* Subject to the requirement of paragraphs (b), (d), (e) and (f) of this section, States and their subgrantees and contractors shall manage and dispose of equipment acquired under the Section 402 program in accordance with State laws and procedures.

(d) *Major Purchases and dispositions.* All purchases and dispositions of equipment with a useful life of more than one year and an acquisition cost of \$5,000 or more must receive prior written approval from the Approving Official.

(e) *Right to transfer title.* The Approving Official may reserve the right to transfer title to equipment acquired under the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes. Any such transfer shall be subject to the following requirements:

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

(2) The Approving Official shall issue disposition instructions within 120 calendar days after the equipment is determined to be no longer needed in the Section 402 program, in the absence of which the State shall follow the applicable procedures in 49 CFR part 18.

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

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

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

(3) The State or its subgrantee shall request disposition instructions from the Approving Official when the item is no longer needed in the Section 402 program.

§ 1200.22 Changes.

States shall provide documentary evidence of any reallocation of funds between program areas by submitting to the NHTSA regional office an amended HS form 217, reflecting the changed allocation of funds, within 30 days of implementing the change.

§ 1200.23 Vouchers and project agreements

Each State shall submit official vouchers for total expenses incurred to the Approving Official. Copies of the project agreement(s) and supporting documentation for the vouchers, and any amendments thereto, shall be made available for review by the Approving Official upon request.

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

- (1) Program Area;
- (2) Federal funds obligated;
- (3) Amount of Federal funds allocated to local benefit (provided mid-year (by March 31) and with the final voucher);
- (4) Cumulative Total Cost to Date;
- (5) Cumulative Federal Funds Expended;

(6) Previous Amount Claimed;

(7) Amount Claimed this Period;

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

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

§ 1200.24 Program income.

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

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

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

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

§ 1200.25 Improvement Plan

If a review of the Annual Report required under § 1200.33 of this part or of other relevant information indicates little or no progress toward meeting State goals, the Approving Official and State officials will jointly develop an improvement plan. This plan will detail strategies, program activities, and funding targets to meet the defined goals.

§ 1200.26 Non-Compliance.

Where a State is found to be in non-compliance with the requirements of the Section 402 program or with applicable law, the special conditions for high-risk grantees and the enforcement procedures of 49 CFR part 18, or the sanctions procedures of part 1206 of this chapter, may be applied as appropriate.

§ 1200.27 Appeals.

Review of any written decision by an Approving Official under this part may be obtained by submitting a written appeal of such decision, signed by the Governor's Representative for Highway Safety, to the Approving Official. Such appeal shall be forwarded promptly to the NHTSA Associate Administrator for State and Community Services or the FHWA Regional Administrator with jurisdiction over the specific division, as appropriate. The decision of the NHTSA Associate Administrator or FHWA Regional Administrator shall be final and shall be transmitted to the Governor's Representative for Highway Safety through the cognizant Approving Official.

Subpart D—Closeout

§ 1200.30 Expiration of the right to incur costs.

Unless extended in accordance with the provisions of § 1200.31 of this part, the right to incur costs under Section 402 expires on the last day of the fiscal year to which it pertains. The State and its subgrantees and contractors may not incur costs for Federal reimbursement past the expiration date.

§ 1200.31 Extension of the right to incur costs.

Upon written request by the State, specifying the reasons therefor, the Approving Official may extend the right to incur costs for some portion of the State highway safety program by a maximum of 90 days. The approval of

any such request for extension shall be in writing, shall specify the new expiration date, and shall be signed by the Approving Official. If an extension is granted, the State and its subgrantees and contractors may continue to incur costs in accordance with the Highway Safety Plan until the new expiration date, and the due dates for other submissions covered by this subpart shall be based upon the new expiration date. However, in no case shall any extension be deemed to authorize the obligation of additional Federal funds beyond those already obligated to the State, nor shall any extension be deemed to extend the due date for submission of the Annual Report. Only one extension shall be allowed during each fiscal year.

§ 1200.32 Final voucher.

Each State shall submit a final voucher which satisfies the requirements of § 1200.23(a) of this part within 90 days after the expiration of each fiscal year, unless extended in accordance with the provisions of § 1200.31 of this part. The final voucher constitutes the final financial reconciliation for each fiscal year.

§ 1200.33 Annual report.

Within 90 days after the end of the fiscal year, each State shall submit an Annual Report. This report shall describe:

(a) The State's progress in meeting its highway safety goals, using performance measures identified in the Performance Plan. Both baseline and most current level of performance under the performance measure will be given for each goal.

(b) The projects and activities funded during the fiscal year, including an explanation of how each of these projects and activities contributed to meeting the State's highway safety goals.

§ 1200.34 Disposition of unexpended balances.

Any funds which remain unexpended after final reconciliation shall be carried forward, credited to the State's highway safety account for the new fiscal year, and made immediately available for use under the State's new highway safety program, subject to the approval requirements of § 1200.13 of this part. Carry-forward funds must be identified by the program area from which they are removed when they are reprogrammed from the previous fiscal year. Once so identified, such funds are available for use without regard to the program area from which they were carried forward,

unless specially earmarked by the Congress.

§ 1200.35 Post-grant adjustments.

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

§ 1200.36 Continuing requirements.

The following provisions shall have continuing applicability, notwithstanding the closeout of a highway safety program in a fiscal year:

(a) The requirements governing equipment, as provided in § 1200.21 of this part;

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

PART 1205—HIGHWAY SAFETY PROGRAMS; DETERMINATIONS OF EFFECTIVENESS

2. The authority citation for part 1205 continues to read as follows:

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

3. Section 1205.4 is revised to read as follows:

§ 1205.4 Funding requirements.

A State may use funds made available under 23 U.S.C. 402 to support projects and activities within—

(a) Any National priority program area identified in § 1205.3 of this part; or

(b) Any other highway safety program area that is identified in the Highway Safety Plan required under § 1200.10(b) of this chapter as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified.

§ 1205.5 [Removed]

4. Section 1205.5 is removed.

Issued on: June 23, 1997.

Jane F. Garvey,

Acting Administrator, Federal Highway Administration.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 97-16779 Filed 6-25-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD033-7157; FRL-5844-3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland 1990 Base Year Emission Inventory; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendments.

SUMMARY: This document corrects inadvertent errors in amendatory instructions in three direct final rules pertaining to the Maryland 1990 base year emission inventory for ozone.

DATES: Effective June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 566-2182 or by e-mail at quinto.rose@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA published a document on September 27, 1996 (61 FR 50715) inadvertently adding a § 52.1075 when that section already existed. The intent of the rule was to amend that section by adding a paragraph (c). That rule was also intended to revise the section heading. On December 3, 1996 (61 FR 64028) and April 23, 1997 (62 FR 19679), EPA published two other documents to amend the same section, but neither document addressed the erroneous "adding" of the already-existing section. This document corrects the erroneous amendatory language in the three documents.

In the direct final rule (FR Docket 96-24524) published in the **Federal Register** on September 27, 1996 (61 FR 50715), on page 50717 in the third column, the second amendatory instruction is corrected to read—"2. Section 52.1075 is amended by adding a paragraph (c) to read as follows:" and the new text is designated as paragraph (c).

In the direct final rule (FR Docket 96-30476) published in the **Federal Register** on December 3, 1996 (61 FR 64028), on page 64029 in the first column, the second amendatory instruction is corrected to read as follows:

"2. Section 52.1075 is amended by revising the heading and adding paragraph (d) to read as follows:" and the new text is designated as paragraph (d).

In the direct final rule (FR Docket 97-10508) published in the **Federal Register** on April 23, 1997. (62 FR 19676) make the following correction—