

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

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

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

[61 FR 28749, June 6, 1996]

§ 1215.8 Use of transferred funds.

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

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

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

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

PART 1225—OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

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- 1225.1 Scope.
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AUTHORITY: 23 U.S.C. 163; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 63 FR 46886, Sept. 3, 1998, unless otherwise noted.

§ 1225.1 Scope.

This part prescribes the requirements necessary to implement Section 163 of Title 23, United States Code, which encourages States to enact and enforce 0.08 BAC *per se* laws.

§ 1225.2 Purpose.

The purpose of this part is to specify the steps that States must take to qualify for incentive grant funds in accordance with 23 U.S.C. 163, and to encourage States to enact and enforce 0.08 BAC *per se* laws.

§ 1225.3 Definitions.

As used in this part:

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

(b) *BAC per se law* means a law that makes it an offense, in and of itself, to operate a motor vehicle with an alcohol concentration at or above a specified level.

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

(d) *Has enacted and is enforcing* means the State's law is in effect and the State has begun to implement the law.

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

(f) *Standard driving while intoxicated offense* means the non-BAC *per se* driving while intoxicated offense in the State.

(g) *State* means any one of the fifty States, the District of Columbia, or Puerto Rico.

§ 1225.4 General requirements.

(a) Qualification requirements.

(1) To qualify for a first-year grant under 23 U.S.C. 163, a State must submit a certification by an appropriate State official, that the State has enacted a 0.08 BAC *per se* law that conforms to 23 U.S.C. 163 and §1225.5 of this part and will become effective and be enforced in the current fiscal year and that the funds will be used for eligible projects and programs.

(i) If the State's 0.08 BAC *per se* law is currently in effect and is being enforced, the certification shall be worded as follows: