

for assistance under title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(ii) If the State's 0.08 BAC *per se* law is not currently in effect, but will become effective and be enforced before the end of the current fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of \_\_\_\_\_, do hereby certify that the (State or Commonwealth) of \_\_\_\_\_ has enacted a 0.08 BAC *per se* law that conforms to 23 U.S.C. 163 and 23 CFR 1225.4, (citations to State law), and will become effective and be enforced as of (effective date of the law), and that the funds received by the (State or Commonwealth) of \_\_\_\_\_ under 23 U.S.C. 163 will be used for projects eligible for assistance under title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(2) To qualify for a subsequent-year grant under 23 U.S.C. 163, a State must submit a certification by an appropriate State official.

(i) If the State's 0.08 BAC *per se* law has not changed since the State last qualified for grant funds under this program, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of \_\_\_\_\_, do hereby certify that the (State or Commonwealth) of \_\_\_\_\_ has not changed and is enforcing a 0.08 BAC *per se* law, which conforms to 23 U.S.C. 163 and 23 CFR 1225.4, and that the funds received by the (State or Commonwealth) of \_\_\_\_\_ under 23 U.S.C. 163 will be used for projects eligible for assistance under title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(ii) If the State's 0.08 BAC *per se* law has changed since the State last qualified for grant funds under this program, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of \_\_\_\_\_, do hereby certify that the (State or Commonwealth) of \_\_\_\_\_ has amended and is enforcing a 0.08 BAC *per se* law that conforms to 23 U.S.C. 163 and 23 CFR 1225.4, (citations to State law), and that the funds received by the (State or Commonwealth) of \_\_\_\_\_, under 23 U.S.C. 163 will be used for projects eligible for assistance under title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(3) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the

certifications it receives to appropriate NHTSA and FHWA offices.

(4) Each State that submits a certification will be informed by the agencies whether or not it qualifies for funds.

(5) To qualify for grant funds in a fiscal year, certifications must be received by the agencies not later than July 15 of that fiscal year.

(b) *Limitation on grants.* A State may receive grant funds, subject to the following limitations:

(1) The amount of a grant apportioned to a State under § 1225.4 of this part shall be determined by multiplying:

(i) The amount authorized to carry out section 163 of 23 U.S.C. for the fiscal year; by

(ii) The ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(2) A State may obligate grant funds apportioned under this part for any project eligible for assistance under title 23 of the United States Code.

(3) The Federal share of the cost of a project funded with grant funds awarded under this part shall be 100 percent.

#### **§ 1225.6 Award procedures for incentive grant program.**

(a) In each Federal fiscal year, grant funds will be apportioned to eligible States upon submission and approval of the documentation required by § 1225.5(a) and subject to the limitations in § 1225.5(b). The obligation authority associated with these funds are subject to the limitation on obligation pursuant to section 1102 of the Transportation Equity Act for the 21st Century (TEA-21).

(b) As soon as practicable after the apportionment in a fiscal year, but in no event later than September 30 of the fiscal year, the Governor's Representative for Highway Safety and the Secretary of the State's Department of Transportation for each State that receives an apportionment shall jointly identify, in writing to the appropriate NHTSA Regional Administrator and FHWA Division Administrator, the amounts of the State's apportionment that will be obligated to highway safety program areas and to Federal-aid highway projects.

#### **§ 1225.7 Certification requirements for sanction program.**

(a) Beginning with FY 2004, to avoid the withholding of funds, each State shall certify to the Secretary of Transportation, before the last day of the

previous fiscal year, that it meets all of the requirements of 23 U.S.C. 163 and this part.

(b) The certification shall contain a statement from an appropriate State official that the State has enacted and is enforcing a 0.08 BAC *per se* law that conforms to 23 U.S.C. 163 and 23 CFR part 1225. The certifying statement should be worded as follows:

I, (name of certifying official), (position title), of the (State or Commonwealth) of \_\_\_\_\_, do hereby certify that the (State or Commonwealth) of \_\_\_\_\_, has enacted and is enforcing a 0.08 BAC *per se* law that conforms to the requirements of 23 U.S.C. 163 and 23 CFR 1225, (citations to State law).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications it receives to appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 163 and this part, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the State's 0.08 BAC *per se* law changes.

(e) FY 2003 Certifications.

(1) Any State that submits a certification of compliance in conformance with the requirements of 23 U.S.C. 163 on or before July 15, 2003, will qualify for an incentive grant in FY 2003 and will avoid the withholding of funds in FY 2004. All certifications submitted in conformance with the incentive grant program will meet the certification requirements of the sanction program. No further certification is necessary from these States.

(2) Any State that submits a certification of compliance in conformance with the requirements of 23 U.S.C. 163 between July 16, 2003 and September 30, 2003, will not qualify for an incentive grant in FY 2003, but will meet the certification requirements of the sanction program, thereby avoiding the withholding of funds in FY 2004. No further certification is necessary from these States.

#### **§ 1225.8 Funds withheld from apportionment.**

(a) Beginning in fiscal year 2004, the Secretary shall withhold two percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United