



April 12, 2021

Jamie Pfister
Associate Administrator for Regional operations and Program Delivery
National Highway Traffic Safety Administration (NHTSA)
U.S. Department of Transportation
Room W12-140
1200 New Jersey Ave., S.E.
Washington DC 20590

RE: Docket No. NHTSA–2021–0009

Dear Associate Administrator Pfister:

Thank you for the opportunity to provide comments on the National Highway Traffic Safety Administration's (NHTSA) intention to request approval from the Office of Management and Budget (OMB) for an extension of NHTSA's uniform procedures for States to apply for grant funds.

We also want to continue to thank you and your team for ongoing efforts to improve grant application processes, increase flexibility, reduce administrative burdens, and above all, to actively hear and respond to the States' concerns. GHSA is also excited to collaborate with the new leadership at NHTSA and U.S. DOT to advance roadway safety.

As you know, the Governors Highway Safety Association (GHSA) is a national nonprofit association representing the State and territorial Highway Safety Offices (SHSOs). The SHSOs implement Statewide programs to address behavioral highway safety issues and are the State respondent entities eligible to apply for grants under the NHTSA Highway Grant Program.

Based on feedback provided to GHSA from its members, GHSA believes that NHTSA has under-estimated the burden of time and cost involved in the subject collection of information. For example, one State suggested that preparing the annual Highway Safety Plan (HSP) alone, including information for both Section 402 and 405, likely takes over 400 hours. HSP development involves not just planning within the SHSO but interaction with other partners as well to select projects and develop agreements. Another State estimated that its Annual Report alone requires 100-120 hours.

The imprecision may reflect the fact that accurately creating single uniform burden estimates is very difficult for a number of reasons. Time spent will differ significantly from State to State, as each applies for and plans to spend a unique quantity of grant funds. States do not

closely track time spent meeting the requirements in question. Many SHSO staff members are involved in preparing HSPs and Annual Reports intermittently over time in addition to implementing programs and performing other duties.

The time burden of completing a mandatory program assessment is also significant. One State likened it to planning a conference – preparing materials, scheduling participants, making travel arrangements, arranging for audio/visual capability, coordination of facilities and more.

The completion of assessments also often involves input from outside State agencies and SHSOs cannot confirm their time spent. The traffic records assessment, if performed in its full in-person mode, is an exceptionally larger undertaking than other assessments, involving input from many more non-SHISO partners, many more questions, and complex technical concepts.

GHSA would also suggest three additional information collection elements that are part of the landscape:

Triennial Management Reviews (MRs)

Not included in NHTSA’s estimate is the information required to be submitted as part of triennial MRs under U.S.C. Title 23 Section 412. NHTSA’s analysis seems to be limited to U.S.C. Title 23 Section 402, 405, and 1906, as well as program assessments associated with Section 405 eligibility. A review of Section 412 does not appear to be currently in the Office of Information and Regulatory Affairs’ Inventory of Currently Approved Information Collections, and thus perhaps not planned for review in the near future.¹

Nonetheless, compliance with Section 412 and participation in MRs are integral parts of State participation in NHTSA’s highway safety grant programs. In short, an MR is completed in every State at least every three years, with the exception of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. During an MR, a NHTSA team will review a State’s systems, programs, program performance and operational practices for the current fiscal year and the previous two fiscal years, using protocols published on NHTSA’s website.

Our association has found value in the MR program in that it helps to identify best practices among the States, as well as recurring errors or shortcomings that we use to train our community to strive towards excellence in program compliance. However, the SHSOs also consider the MR as one of the most demanding tasks that States are required to carry out, especially for new SHSO leadership. GHSA devotes a substantial amount of time and effort to support the SHSOs for MRs, including sharing NHTSA MR protocols, offering general support and the

¹ Information Collection Review, Office of Information and Regulatory Affairs, Office of Management Budget, <https://www.reginfo.gov/public/do/PRAMain> (dated February 10, 2021)

availability of specialized consultants to help SHSOs navigate all steps of the MR experience.

GHSA would identify two specific potential areas of improvement related to MRs:

Transparency: One notable barrier to this information collection is the timely disclosure of schedules and planning documents that help States prepare for MRs. Every year, NHTSA revises its “Management Review Elements” but has sometimes been significantly delayed in either posting this resource or sharing it with the States.

Redundancy: NHTSA teams conducting an MR in a State sometimes request information that NHTSA already has on file, such as from previous quarterly grant and financial reviews. By integrating some of this information, the time involved in the MR process could be reduced.

NHTSA Collection of State Project-Level Details

GHSA has previously brought to NHTSA’s attention a long-term trend over many years and many generations of rulesets, in which NHTSA has expanded its oversight of the States by requiring States to submit not only program information in HSPs but also increasingly detailed information on “planned activities” and individual projects.² When NHTSA proposed the structural integration of this oversight into the procedures now promulgated in 23 CFR Part 1300, GHSA noted that the collection of much of this information was and is not explicitly required by U.S.C. Title 23 Chapter 4.

In addition to submitting information to NHTSA as part of HSPs and Annual Reports, States are also required to submit HSP amendments and provide additional information. For example, States are asked to submit additional detail about Section 405(c) equipment purchases that, if unavailable at the time of the HSP, must be submitted at other times during the program year. It is unclear whether NHTSA’s estimates of burden hours or cost include this supplemental information collection, but GHSA’s members consider the additional effort to be substantial.

NHTSA Collection of Financial Information

Another element not captured in NHTSA’s estimate is financial management. As part of the management of State highway safety programs, SHSOs work with the Federal Grant Tracking System (GTS) to understand federal grant amounts available, receive grant fund reimbursements, and access other financial tracking information. The GTS has matured and GHSA urges NHTSA to continue to prioritize GTS modernization.

² Uniform Procedures..., 23 CFR Part 1300, <https://www.govinfo.gov/content/pkg/FR-2018-01-25/pdf/2018-01266.pdf>

Twenty-four SHSOs are part of State Departments of Transportation and they face a unique challenge with federal intermodal differences in financial requirements. State DOTs tend to structure grant accounting systems and policies to comply with FHWA requirements, due to the volume of grants with that agency. Because NHTSA and FHWA have different financial requirements, many SHSOs are faced with the burden of maintaining separate, parallel financial structures for grants received from the two respective modal administrations within the same federal department. Similar inter-modal variation exists with rules on certifications and assurances, asset tracking, Buy America rules, and allowable use for similar activities. All of these areas are potentially ripe for reform towards a “one-DOT” approach.

All this is to say that burdens associated with this collection of information are significant, denoting the importance and value of finding ways to reduce administrative onus, streamline program requirements, and achieve greater nationwide consistency.

NHTSA has already taken many helpful steps. GHSA strongly supports the use of a consolidated application process and urges NHTSA to continue to apply a “single application” philosophy moving forward. We want to applaud NHTSA for steps it has taken in the last several years to improve the assessment process, particularly to provide more options to reduce the burden of the traffic records assessments, and in the wake of the pandemic, to rapidly shift to virtual assessment procedures.

GHSA is pleased to offer additional suggestions on how to enhance the quality, utility and clarity of information collection; how to reduce the burden of the collection of information; and how such efforts can support the new Administration’s vision to implement national transportation programs.

Annual Reports

While changes to HSP requirements may require congressional intervention, NHTSA has it within its authority to alter many elements of the Annual Reports, which are not explicitly required by or detailed in statute.

Currently, States are required to generate a new submission of information every six months – an HSP in the summer and Annual Report at the end of the year (by December 31). The Annual Report deadline currently coincides with year-end closeout and the winter holidays when staff availability is often a challenge.

Under the 2020 [revisions](#) to 2 CFR Part 200 (“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”), NHTSA is authorized (beginning with FY 22) to permanently extend the Closeout and Reporting deadline for pass-through entities from 90 to 120 days (although subrecipients must still submit their information within 90 days).

To ease State burdens and more effectively space out deadlines, GHSA urges NHTSA to set the Closeout and Reporting deadline as January 31, and the Annual Report deadline as March 31.

GHSA recommends that NHTSA Prepare Fully for Future Format Changes

An important factor in the collection of information under NHTSA’s grant programs is the format. Over several years past, both NHTSA and the States struggled to launch the Grants Management Solutions Suite (GMSS), the project to transition the submission of information to a single, national electronic platform. On the great effort to make the GMSS initiative work, we expect that NHTSA would agree that it added incalculable hours and costs to the burden of this information collection for both the States and NHTSA with little or no benefit actually achieved.

However, GHSA strongly supports the establishment of a national electronic grant program, especially with the financial aspects where electronic methods are more practical, which should make this information collection more efficient and eventually facilitate more program transparency. We applaud new NHTSA efforts thus far to gather insight from SHSOs on State financial systems and parameters of a future national system. As mentioned above, we urge NHTSA to prioritize GTS moderation as part of this project. However, the most recent experience suggests that the launch of any future grant platform should be prefaced by extensive testing, evaluation and training. GHSA and its members stand ready to collaborate on a solution that meets the needs of all.

Information Collection on Traffic Enforcement and Promoting Equity

While Secretary Buttigieg has made achieving greater equity in transportation a high priority of U.S. DOT, GHSA can point out a kaleidoscope of factors that have led to a culture that favors investment in traffic enforcement at the expense of other kinds of behavioral countermeasures, including various requirements for the submission of information from the States to NHTSA about grant-funded traffic enforcement activities.

Traffic enforcement and criminal justice are and will remain indispensable elements of the comprehensive approach needed to move towards zero traffic fatalities. Some highway safety threats, such as impaired driving in particular, will continue to demand public communications and criminal justice interventions. GHSA also continues to support our law enforcement partners who risk their lives every day to protect the traveling public.

However, the need for reform to combat excessive force, disparate treatment, and individual and systemic racism in policing is undeniable. Last year, GHSA’s Executive Board formed a work group on equity and traffic enforcement and engagement, issued a statement³ on these matters and continues internal efforts to identify opportunities for our members to promote constructive changes.

³ “GHSA Recommends Steps to Fight Racism in Traffic Enforcement”, GHSA News Release, September 23, 2020, <https://ghsa.org/resources/news-releases/Equity-In-Traffic-Enforcement20>

While some States may continue to prioritize enforcement as a matter of policy, there is a growing appetite nationwide to try new approaches. GHSA would welcome NHTSA partnership to develop tools and guidance for States to assist them in eliminating and avoiding inequity, or even the perception of inequity, in grant-funded traffic enforcement programs.

Reduce Burdens Through the Next Federal Transportation Reauthorization

Many burdens will require action from the U.S. Congress. Attachment A is a summary of recommendations that GHSA is promoting before Congress to improve NHTSA’s highway safety grant programs in the next federal transportation reauthorization. GHSA encourages NHTSA to incorporate these changes into the U.S. DOT’s formal recommendations to Congress.

GHSA appreciates the opportunity to submit comments and we look forward to working with the U.S. DOT to improve the NHTSA highway traffic safety grant programs and advance our shared mission of saving lives on our nation’s roads.

Regards,



Chuck DeWeese
Chair, Governors Highway Safety Association
Assistant Commissioner, New York Governor's Traffic Safety Committee



Appendix A
NHTSA Highway Traffic Safety Grant Programs
2021 GHSAs Recommendations
As of April 1, 2021

Section 402 – NHTSA Highway Safety Programs

- Expand Section 402 allowable uses to include public education on vehicle recall awareness, move over law awareness, pediatric vehicular hyperthermia awareness, and safe use of new vehicle technology. *USC 23 Sec. 402(a)(2)(A)*
- [Proposed in The Moving Forward Act] Eliminate the Biennial Automated Enforcement Survey requirement, which is a not a productive use of funding to assess activities in which the State highway safety offices are not involved and generates reports that are being used for no purpose. *USC 23 Sec. 402 (c)(4)(C); The Moving Forward Act pg. 747*
- [Proposed in The Moving Forward Act] Require NHTSA to create a public-facing website centralizing highway safety program information and with a search feature for HSP content, per the recommendation of GHSAs and other safety stakeholders. *The Moving Forward Act pg. 747*
- Clarify that HSP performance reporting should be based on information available to date, as States may not have complete progress information when the HSP is submitted in July. *USC 23 Sec. 402 (k)(4)(E)*

Section 1906 – Grant Program to Prohibit Racial Profiling

- Reauthorize this program. *Section 1906 of SAFETEA-LU USC 23 Sec. 402 Note*
 - Rename to “Grant Program to Ensure Equity in Traffic Enforcement, to reflect the broader goals of the program.
 - Allow funds to be used for law enforcement outreach and State-certified anti-bias police training, so that States can take action beyond just collecting and reporting data on racial profiling.
 - Allow States to qualify for more than just two consecutive years and remove the cap on awards.
 - Direct NHTSA to provide technical assistance to States on racial profiling data collection programs.

Section 403 – Highway Safety Research and Development

- [Proposed in The Moving Forward Act] Reauthorize and increase investment in the Behavioral Traffic Safety Cooperative Research Project (BTSCRCP) from \$2.5 million to \$3.5 million. *USC 23 Sec. 403(f)(1); The Moving Forward Act Sec. 3004*
- Direct NHTSA to research non-enforcement behavioral countermeasures, to diversify the evidence-based countermeasures available. *USC 23 Chapter 4*

Section 404 – High-visibility enforcement program

- Allow NHTSA to use Section 404 funds to create traffic safety marketing materials that don't emphasize enforcement, to diversity messages used in highway safety campaigns. *USC 23 Sec. 404(c)*

Section 405 – National Priority Safety Programs

A. Eliminate Section 405 and shift the funding to Section 402.

B. If Section 405 cannot be eliminated, initiate reforms:

- Invest more funding in Section 402 than Section 405 and include greater year-to-year increases in Section 402, which provides flexibility to allocate funds towards each State's unique, data-driven safety needs.
- Eliminate Section 405 Maintenance of Effort requirements. NHTSA is preventing supplanting through other mechanisms and MOE calculations are subjective and administratively burdensome, especially for small States with fewer funds to expend. *USC 23 Sec. 405(a)(9)*
- [Proposed in the Moving Forward Act] Require NHTSA to list of all reasons for NHTSA grant ineligibility so States can better improve policy. *Section 4010 of FAST Act (Public Law 114-94); The Moving Forward Act Sec. 3009*
- Section 405(b) Occupant Protection:
 - [Proposed in the Moving Forward Act] Child passenger safety in underserved communities. GHSA accepts the proposed changes to Section 405 (b) negotiated with Safe Kids Worldwide. *The Moving Forward Act pg. 760*
- Section 405(c) Traffic Safety Information Systems:
 - Significantly reform this program to expand allowable uses and remove administrative burdens, or, eliminate this program and redistribute the funds in Section 402 or Section 405.
 - [Proposed in the Moving Forward Act] Now that States have conducted burdensome, repetitive mandatory traffic records assessments multiple times, change the length of time between assessments to at least ten years. *The Moving Forward Act pg. 760*
 - [Proposed in the Moving Forward Act] Expand allowable use to include improving traffic safety data collection processes, acquiring traffic records and data collection equipment, data linkage and compatibility, traffic records training, and traffic records research. *The Moving Forward Act pg. 762*
 - As every State now has a Traffic Records Coordinating Committee (TRCC) to steer State traffic records programs, change the eligibility requirements to instruct States to only “certify” the existence of a State TRCC and TRCC coordinator. *USC 23 Sec. 405(c)(3)*

Section 405 – National Priority Safety Programs (cont'd)

- Section 405(d) Impaired Driving:
 - GHSA supports proposed language with Responsibility.org, National Sheriff's Association and AAA to clarify allowable use to address multiple substance impaired driving, encourage investment in toxicology labs and new technologies, and authorize the use of funds to cover law enforcement officers replacing another officer in grant-related training. *USC 23 Sec. 405(d)(4)(B)(iii)*
 - [Proposed in the in the Moving Forward Act] Reform the Ignition Interlock (IID) grant program exceptions to allow more States to qualify. GHSA accepts proposed language from the Coalition of Ignition Interlock Manufacturers to alter eligibility requirements. *The Moving Forward Act pg. 764*
 - Allow States to qualify for 24/7 sobriety programs if they have local but not Statewide 24/7 programs. *USC 23 Sec. 405(d)(7)(A)*
- Section 405(e) Distracted Driving:
 - [Proposed in the in the Moving Forward Act] Reform this program to increase State eligibility and get more resources out to the States for distracted driving prevention programs. GHSA supports language proposed in the Moving Forward Act, also supported by the National Safety Council, to increase grant eligibility. *The Moving Forward Act pg. 765*
- Section 405(f) Motorcyclist Safety:
 - Significantly reform this program to aggressively expand allowable uses of funds (including law enforcement programs and training, public education campaigns on sharing the road, safe motorcycle operation, helmet use programs, and traffic signage), or, eliminate this program and redistribute the funds in Section 402 or Section 405. *USC 23 Sec. 405(f)*
- Section 405(g) Graduated Driver Licensing Laws:
 - [Proposed in the in the Moving Forward Act] Significantly reform this program to allow at least some States to be eligible for funding, or, eliminate this program and redistribute the funds in Section 402 or Section 405. GHSA supports the changes proposed in the Moving Forward Act to increase grant eligibility. *The Moving Forward Act pg. 771*
- Section 405(h) Nonmotorized Safety:
 - [Proposed in the Moving Forward Act] Expand the program to allow use of funds for a wider range of public education on safe mobility practices. *The Moving Forward Act pg. 777*

Section 164 –Repeat Offenders

- [Proposed in the Moving Forward Act] Allow Section 164 transfer funds to also be used for drug impaired driving initiatives. *USC Sec. 23 Sec. 164(b)(1); The Moving Forward Act Sec. 3008*

Section 148 - Highway Safety Improvement Program (HSIP)

- [Proposed in the Moving Forward Act] Restore the ability for States to “flex” up to 10% of HSIP funds for non-infrastructure purposes, so that State DOTs and highway safety offices with limited resources can allocate funds where they are most needed. *USC 23 Sec. 148; The Moving Forward Act Sec. 1209*

Chapter 4 – Highway Safety

- [Proposed in the Moving Forward Act] Replace the term “accident” with “crash”, reflecting that all crashes have culpability and are preventable. *The Moving Forward Act pg. 782*
- Limit the use of enforcement as a grant requirement except for those already specifically listed in Title 23 Chapter 4, to discourage over-policing. *USC 23 Chapter 4*
- Clarify that the Stop Motorcycle Checkpoint Funding Act applies to law enforcement checkpoints and that it does not apply to observational motorcycle helmet research surveys, which have been interpreted administratively by NHTSA as included in a ban on use of federal funding to support them. *Section 4007 of FAST Act (Public Law 114-94) The Moving Forward Act Sec. 3011*

GHSA Areas of Concern in the Moving Forward Act

- GHSA opposes a proposed new Traffic Safety Enforcement Program. GHSA generally opposes any set asides within Section 402, which should be driven by each State’s unique needs. GHSA is also concerned that the purpose of establishing this program, and the reason to impose a separate application, is not clear as currently all States are required to develop and implement a traffic safety enforcement program targeting proven countermeasures based on local needs and leveraging NHTSA’s Countermeasures That Work (some States consider it to be their number one reference to select projects). If Congress is to pursue this idea, it deserves reconsideration to differentiate it from Section 402 and provide more incentives for States to apply, such as eliminating a Maintenance of Effort requirement and offering 100% federal share. *The Moving Forward Act Sec. 3003*
- GHSA opposes increasing the number of national enforcement mobilizations from three to six. This increase would result in an excessive draw of funding and resources for many States and challenge the ability of local law enforcement agencies to participate. If Congress increases the number of mobilizations, it should clarify in USC 23 Sec. 402(b)(1)(F)(i) that States must only participate in at least three of the six every year. *The Moving Forward Act Sec. 3006*
- GHSA opposes any changes to the current Section 405-402 transfer. All unallocated Section 405 funds should be redistributed only under Section 402. *The Moving Forward Act 4 pg. 759*