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October XXX, 2022

Barbara Sauers

Associate Administrator, Regional Operations and Program Delivery

National Highway Traffic Safety Administration (NHTSA)

U.S. Department of Transportation

1200 New Jersey Ave., S.E.

Washington DC 20590

Dear Associate Administrator Sauers,

Thank you for the opportunity to respond to this request for comments on the Notice of Proposed Rulemaking (NPRM) for the Uniform Procedures for State Highway Safety Grant Programs under Docket No. NHTSA–2022–0036.

We know a tremendous amount of work went into developing this NRPM and Minnesota commends NHTSA and their staff for getting this accomplished in a very timely manner. While IJJA will present many opportunities for states to improve overall roadway safety, the transition will not be without challenges. Minnesota strongly encourages NHTSA to limit any regulatory requirements to those that are required by the authorizing statute.

While much work lies ahead, I am very confident that by working with the States and with the Governor's Highway Safety Association that we can all make the transition as smooth as possible. Our hope is that NHTSA will have the final rule completed in an expeditious manner to give us as much time as possible to adapt and learn the new processes. Our planning for FFY 2024 is already well underway and knowing what requirements we must meet will help us to complete our planning process in a thoughtful and deliberate way.

In addition to these specific comments, Minnesota strongly supports all of the recommendations and comments provided by the Governor's Highway Safety Association.

Respectfully Submitted,

Michael J. Hanson

Michael Hanson

Director

Minnesota Department of Public Safety, Office of Traffic Safety

Minnesota submits the following comments for consideration:

Preamble, Section II.D:

The development of a new stand-alone E-grant program is a complex and singularly large-scale undertaking. With the significant changes brought about under IIJA, Minnesota would have a very difficult time transitioning to two new significant projects during the same time period. Accomplishing both of these at once would add a significant undue burden to an already challenged staff.

Section III, B, 4

Determining workable and realistic performance measures is a complex and difficult task even under the current rules and regulations. So many of the variables that must be accounted for are beyond the immediate control of the SHSO. While we do work in very close collaboration with our DOT partners, we can really only focus on the behavioral aspects of traffic safety. There are just so many real world challenges to the current and proposed performance measure matrix that it takes up an inordinate amount of staff time for very little in return. We encourage NHTSA to work with GHSA as well as other federal partners to reevaluate how performance measures are established and used.

Part 1300.11 (2)

Minnesota welcomes the opportunity to improve and expand our community engagement and outreach efforts. This is a core part of our strategy moving forward to address the deteriorating behavior and culture that we are seeing on our roads. We have several areas to comment upon:

We request freedom and flexibility as we develop our outreach strategy efforts. This will be an area we have some experience in but will need to further develop our infrastructure to support it and build a system to track our efforts.

With the upcoming transition to the Triennial Highway Safety plan and all that we are anticipating being required for its preparation, we are already building our plans and events. These cannot be done at the last minute and we may very likely miss some element that NHTSA will want to track or have documented. For year 1 we ask that NHTSA use our efforts as a good faith starting point that can be built upon for future efforts.

1300.11 (b)(2)

A single Community Participation Plan is strongly desired. Minnesota would advocate that the newly required engagement plan that is a part of the Triennial Highway Plan would suffice.

Measuring and reporting community engagement is an appropriate and necessary activity given the new language contained in the IIJA legislation. The volume and type of reporting is where this could become an unnecessary burden for the states. This will also be a learning activity for the first year or two as outreach, input, and engagement strategies and tactics are tested and evaluated. One size will not fit all and flexibility will be necessary. Guideline would be helpful for the states but mandating specific activities would not. States know their demographics and unique challenges that need to be addressed. Having the freedom and flexibility to map out individual strategies will be a necessary part of the reporting and documentation process if states are to be successful in reaching all of their communities.

Along with the above comments, requiring states to identify specific efforts for engagement may hinder these efforts. Further, Minnesota is already well underway with planning our engagement events and schedules. This is necessary in order to ensure we have adequate time to plan for these events in time to use what we learn as we prepare our 2024-2027 Triennial Highway Safety Plan. It would be very difficult and place an undue heavy burden on our staff to have to reengineer these once a final rule with certain specified activities is released.

1300.11 (b)(2)

For Minnesota to comply in good faith with the community engagement and outreach requirements that are to be identified in the Triennial Highway Safety Plan, Minnesota DPS-OTS staff and supported programs will need to

be fully engaged. This will result in utilizing federal funding to support these efforts. Utilizing federal funds to support engagement, input, and outreach must be an allowable expense.

Section III, (b)

The NPRM contains the new IJA requirement that performance targets demonstrate constant or improved performance. NHTSA's comments on this in the Preamble in Section III, B.4. Performance Plan accurately describe how a State should set a data-driven performance target, as they do today. However, NHTSA has not articulated how States can set a data-driven target if the evidence and analysis conclude that an appropriate target would not demonstrate constant or improved performance. Having to use a model that shows constant improving performance measures sets an unfair (and perhaps even unattainable) standard that must be met. Minnesota requests that NHTSA work within the legislative intent while also recognizing that data will sometimes indicate a performance target that may be counter to "constant" and "improving". We support having benchmarks and measures of improvement, but they must be realistic and grounded in data.

1300.11 (b)(4)(ii)

Minnesota respectfully requests that NHTSA retain the current model of identifying, justifying, and implementing countermeasures that work into our highway safety plan. We further request that NHTSA continue to allow new and innovative strategies to be utilized as long as the requisite reasons and justification are provided by the state. The changes that NHTSA has proposed will prove to be confusing, administratively burdensome, and will serve to stifle the evolution of new and effective ways to change driver behavior.

1300.11(b)(5)

Minnesota strongly encourages NHTSA not to create a duplicative process for the Triennial Highway Safety Plan, the Annual Grant Application, and the Annual Report. Each of these reports and what is required to be in them should be narrowly tailored to the specific purpose the document must serve. Requiring extensive and repetitive detail in each will create a significant and unnecessary burden for the SHSO staff and will take time away from other important tasks.

1300.12 (b)(1)

Minnesota believes that the language in the enabling statute clearly identifies that the states' have the authority to make updates to the Triennial Highway Safety Plan. We do believe that NHTSA does maintain the authority to provide input and guidance, but the states should have the decision-making authority.

1300.12 (b)(2)

NHTSA proposes the inclusion of ZIP codes to identify specific areas where project activities take place. Minnesota opposes this requirement. This requirement would place a significant addition to the workload of our staff. The vast majority of our projects and programs encompass large geographic areas with a significant number of ZIP codes that would be difficult at best to accurately identify. This should be an optional data field limited to projects/programs taking place in a geographically limited area.

1300.13 (a)

Minnesota respectfully requests that NHTSA reconsider the previously rejected request to increase the percentage of funds that can be used to support Planning and Administration costs. With the upcoming implementation of IJA, Minnesota will see an increase in the amount of time and resources that will be required to properly manage the many new requirements. With current inflationary pressures and the increasing cost of doing business, and the new programming requirements the modest increase that was requested (from 15% to 18%) is a critical need.

1300.13 (b)

Documenting the required 40% local benefit is a complex and time-consuming process for the Minnesota staff that administer these programs. Under the proposed regulations, NHTSA is taking this process in a direction that will only increase this already complex task. We would welcome the extensive local input but that is not a practical solution. One program area example; Minnesota DPS-OTS regularly works with over 300 law enforcement agencies across the state. Expecting each of them to prepare a detailed request in today's challenging environment is certain to significantly reduce their participation. Further, in order to streamline the grant process for both the SHSO and the agencies, in the majority of the grants, multiple agencies are partnered together under a single grant. Similarly, having each specific subdivision participate in the HSP process is also logistically extremely difficult. The rules that NHTSA is proposing will cause significant challenges for Minnesota and will impact the scale and the scope of the programs we are able to effectively administer. An additional area of concern for Minnesota is the proposed change to state sponsored media and outreach campaigns. By their nature, these campaigns clearly benefit all of the local communities in our state. If this

expenditure is not allowed to be used in our local benefit calculation, it will have a drastic effect on how much funding we would be able to allocate to our communications efforts. These proposed changes are highly problematic and could cause significant reductions in our effectiveness across the state.

1300.27

Minnesota strongly favors this new program. As NHTSA formulates the rules that will apply, we request that NHTSA recognize in the language and terminology that this technology is continually evolving and broad language and terms should be used. We request that the application process for this program mirror the other Section 405 grant programs. Clarity and uniformity will greatly assist us in the preparation of the Triennial Highway Safety Plan. Minnesota would also request further clarifying language defining the allowable use of funds for equipment purchases.

1300.35 (a)(1)(ii)

The rules that NHTA has proposed to be included in the states' Performance report appear to be overly broad and duplicative. States should be allowed to continue to report project overall performance on a statewide basis as we currently do. The additional work that would be required to link and describe how each individual grant contributed to the overall performance target would be significant. This narrative would also result in a vast expansion of the Annual Report creating a very unwieldy document. As we have mentioned several times in the course of our comments, we strongly urge NHTSA to avoid any and all unnecessary duplication of information or content across the Triennial Highway Safety Plan, the Annual Application, and the Annual Report

1300.35

Minnesota respectfully requests that states be allowed to use their existing templates for our Annual Report. We have gone to great lengths to develop a system and process that eases the administrative burdens on our staff while also producing a high-quality report that meets the current defined standards. Any additions or expansions to the required information that is to be contained within the Annual Report beyond what is required under the law without a substantial justification would add an unnecessary burden to our process.

1300.35 (b)

Minnesota would request that the proposed rules applying to the states activity report be greatly simplified as they appear to duplicate elements contained in the Annual Grant Application process.

1300.35 (b)(2)

In addressing the topic of Evidence Based Enforcement Activities, Minnesota strongly concurs with the comments prepared by the Governor's Highway Safety Association. As we have noted previously, we request that NHTSA work diligently to avoid having administratively burdensome duplication across the three main required reports and applications: the Triennial Highway Safety Plan, the Annual Application, and the Annual Report. Further and more detailed guidance on what NHTSA will expect or require in the way of engagement/community collaboration activities would also be very helpful. Minnesota would also request that NHTSA base any regulatory requirements on an open and flexible platform. States should be allowed a great deal of freedom to determine which types of activities will be most effective.