



May 5, 2025

Mr. Gregory Cote  
Acting General Counsel  
U.S. Department of Transportation  
1200 New Jersey Ave. S.E.  
Washington, DC 20590

RE: Docket No. DOT-OST-2025-0026, Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs

Dear Acting General Counsel Cote:

Thank you for the opportunity to provide input on the Department's request for information (RFI) on Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs, Docket No. DOT-OST-2025-0026.

The Governors Highway Safety Association (GHSA) is a national nonprofit association representing the State and territorial Highway Safety Offices (SHSOs). The SHSOs receive highway traffic safety grants from the National Highway Traffic Safety Administration (NHTSA) to implement behavioral highway safety programs.

Over the past several years there has been an increase in the administrative burden associated with the funding that states receive from NHTSA. In order to participate in NHTSA's grant programs, states are required to comply with an excessive number of program rules and qualifications. States face onerous, duplicative record-keeping and reporting requirements. This administrative red tape is taking up a significant amount of the resources that should be used for the implementation of safety programs.

An example of this is the amount of detail that NHTSA is requiring for approval of the annual grant applications (AGA), which was intended to be a brief annual update on planned grant activities to supplement the triennial highway safety plan (THSP). Congress intended for the restructuring of the planning and grant application process in the Infrastructure Investment and Jobs Act (IIJA) to reduce the regulatory requirements, but instead the AGAs have ballooned into several hundred pages long in order to meet the expanded NHTSA regulations on their content. The required detail has resulted in several AGAs reaching between 300-500 pages.

We have also seen other requirements in IIJA expanded beyond the bill's intention like the public participation and engagement (PP&E) requirements which focus on reaching impacted communities in the traffic safety planning process. While GHSA supports the goal of this program, NHTSA's implementation has been heavy handed and focused on oversight of the process for implementing it not on SHSOs achieving the desired outcomes.

Across the entire highway safety grant program, NHTSA's oversight activities have increased significantly, creating an increased reporting burden on states to demonstrate compliance. GHSA supports appropriate oversight and recognizes the importance of transparency when using federal funding, but the increased focus on oversight of the planning process for grants instead of the outcomes of the grant activities is creating a significant regulatory burden on states which in turn reduces the resources available for implementing safety programs. Further, this overreach is impacting the ability of states to implement safety programs that can most effectively address the unique safety challenges they face.

### Responses to questions posed in the RFI

*Question 1: Are there any regulations or guidance commenters can identify that fall within the seven categories outlined in Executive Order 14219? If so, how does any particular regulation or guidance fall within one or more of those categories? Would repeal or modification (and if so, please describe what modification) advance the policies of the order, consistent with law?*

Response: The regulations promulgated by NHTSA in response to changes made in IIJA went well beyond the underlying statutory authority and has significantly increased the regulatory burden on states. To reduce that burden and bring the regulations in line with the best reading of statutory authority, GHSA offers the following recommendations for changes to the regulations.

- Reduce Emphasis on PP&E – Title 23 USC § 402(b)(1)(B) requires that state plans must “provide for a comprehensive, data-driven traffic safety program that results from meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities.” This relatively minor requirement has been substantially expanded through NHTSA’s final rule updating the Uniform Procedures for State Highway Safety Grant Programs to be a significant focus of the program. The final rule cites President Biden’s, now rescinded, *Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government* as the reason for expanding the requirements beyond the statutory authority.

NHTSA’s expanded emphasis has included detailed submission of PP&E activities, multiple NHTSA in-person and virtual trainings, and significant micromanagement of state PP&E delivery. GHSA requests that NHTSA rightsize the program requirements to be in line with statute by removing the expanded THSP obligations, related Annual Report narratives, and other reporting requirements for PP&E from Title 23 CFR §1300 and simplify the program by allowing states to certify that they are meeting the requirement outlined in statute through the annual Certifications and Assurances process outlined in Appendix A of § 1300. Removing the requirement to describe PP&E efforts in the THSP and Annual Report will not change the requirement for states to conduct the activities it will only reduce the burden caused by the reporting activities.

Specifically, § 1300.11(b)(2) and § 1300.35(b)(2) of Title 23 CFR should be repealed and the definition of *Triennial Highway Safety Plan* in § 1300.2 should be modified to remove the reference to PP&E. The full regulatory text that GHSA proposes being repealed/modified is included in Appendix A.

- Reduce Local Expenditure Reporting Burden – Title 23 USC § 402 (b)(1)(C) requires that 40% of federal funds apportioned under the section be expended by a local subdivision. According to NHTSA’s Uniform Procedures for State Highway Safety Grant Programs, states can accomplish this by directly funding projects that a local government administers or

documenting that a local government certifies that state activities benefit their community. However, in practice, recent enforcement of this requirement by NHTSA has made it difficult to meet the documentation requirements required to demonstrate a local government's support for a project. This has in effect required that states provide the funding to a local government to directly expend instead of allowing states to document that a local government is supportive of state-run efforts that benefit their community. Local governments often don't have the resources to implement comprehensive safety programs and benefit from the state conducting the program in their community. Further, when funding is passed through to local government, there is often a higher percentage of funding used for administrative purposes, because they are less efficient at operating these programs than states.

In the short term, NHTSA should make it clear to its regional offices that states can conduct activities on behalf of a local subdivision that qualifies for local expenditure if the local subdivision confirms in writing that the efforts will benefit their community. Longer term, NHTSA should update Title 23 CFR §1300 to remove the local expenditure requirements which go beyond the best reading of statute and are duplicative as states already certify through the annual Certifications and Assurances process outlined in Appendix A of §1300 that they are meeting this requirement.

Specifically, §1300.13(b)(1) through (b)(4) of Title 23 CFR should be repealed. The full regulatory text that GHSA proposes being repealed is included in Appendix A.

- Reduce Burdensome Traffic Enforcement Reporting Requirements – One of the key tools available to address unsafe driving behavior is traffic enforcement. Over the past several years, the amount of traffic enforcement being conducted across the country has significantly decreased. We have seen a corresponding increase in unsafe driving behavior.

While national data on how the decrease in traffic enforcement has impacted unsafe driving behavior isn't readily available, there have been numerous reports of decreased enforcement leading to an increase in crashes. For example, DUI arrests fell by nearly 40% in Virginia and Washington, DC between 2010 and 2021 and DUI-related fatalities have risen by 33 percent. St. Louis, Missouri has seen similar trends, in 2021 St. Louis police made 45,154 traffic stops, a little more than half of the 85,622 made in 2009. During that period traffic deaths in St. Louis have doubled. In Austin, Texas the police budget was cut by one-third in 2020 which reduced staffing and traffic enforcement. As a result, speeding citations dropped by 90 percent. Shortly after, Austin reached a record number of traffic deaths.

It's clear that traffic enforcement is a crucial tool for addressing unsafe driver behavior. The requirement in Title 23 CFR § 1300.35(b)(3) to report on the community collaboration efforts of law enforcement agencies that state highway safety offices support is creating a significant obstacle for local law enforcement agencies to participate in state highway safety office supported traffic enforcement. While community collaboration efforts are occurring, the amount of documentation and reporting requirements that NHTSA has established for the Annual Report creates a large burden on the state highway safety office and their local law enforcement partners to demonstrate compliance. States must already certify through the annual Certifications and Assurances process that they are meeting the requirement. The requirement to report on the activities of each local law enforcement agency in the Annual Report is duplicative and the administrative burden it causes is deterring law enforcement agencies from engaging in traffic enforcement. Removing the requirement to report on it in the AGA will not change the requirement for states to conduct the activities it will only reduce the obstacles caused by the reporting requirements.

Specifically, Title 23 CFR § 1300.35(b)(3) should be repealed. The full regulatory text that GHSA proposes being repealed is in Appendix A.

*Question 7: Are there regulations, guidance, or reporting requirements that unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, or delivery of transportation projects?*

Response: See answer to question 9.

*Question 9: Are there regulations, guidance, or reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve statutory obligations in more efficient ways? If so, what changes should be made?*

Response: The changes below address questions 7 and 9. In addition to the burden imposed by the regulations described above, the way that NHTSA has chosen to implement portions of the regulations has added regulatory burden to states. This burden results in more resources being dedicated to demonstrating compliance and slows down the implementation of roadway safety projects. Streamlining reporting requirements would increase the resources available for implementing roadway safety projects. GHSA offers the following recommended changes to the implementation and reporting of regulatory requirements to reduce burden and cost.

- Program Monitoring – NHTSA and its regional offices should focus less on dictating the process of implementing grants and more on oversight of the final outcomes. U.S Code provides comprehensive direction to SHSOs in the management of federally funded safety programs. The current level of NHTSA oversight is duplicative of state efforts and requires too many resources from the SHSOs. NHTSA and its regional offices are requesting information and updates on projects, planning, expenditures, etc. on almost a weekly basis, if not more often. This is in addition to the information that SHSOs submit through the THSP, AGA, Annual Report, regular file reviews, voucher reviews and extensive management reviews that occur every three years.

NHTSA and its regional offices should reduce their monitoring of the routine operations of SHSOs and instead administer the statutory requirements for the program. This should extend to the level of detail required in the AGA, Annual Report, and the AGA amendment process which were intended to be brief documents that build on a state's THSP but have ballooned into large documents to accommodate the level of reporting detail required by NHTSA.

- AGA Amendment Process – Title 23 CFR § 1300.32 outlines a process for a state to make a change to subgrant agreements in its AGA. When an amendment to a project is needed SHSOs must submit a request in accordance with Title 2 CFR § 200.407. NHTSA regulations specifying that “States shall document changes to the annual grant application electronically” have resulted in a tedious process of revising and resubmitting original AGA or project documents, potentially multiple times, merely to include amendments that have already been reviewed and approved by NHTSA. Even amendments that do not meet the threshold for pre-approval are required to be submitted for “informational purposes.” According to the CFR, certain amendments that don't change the purpose of a subgrant and are used for funding for eligible purposes, don't require NHTSA's approval. In practice, NHTSA requires a significant amount of detail for nearly all proposed amendments. This is an administratively burdensome process that is duplicative.

NHTSA should reform the AGA amendment process to eliminate any requirement for additional submissions of revised AGAs or project documents and only require SHSOs to report amendments when they significantly change the size of a subgrant or propose supporting an activity that isn't explicitly stated as an eligible funding use.

The NHTSA behavioral safety programs are a critical element of tackling the roadway safety challenges that we see and SHSOs across the country are doing their best to implement meaningful programs to improve driver behavior but are bogged down by the amount of regulations, reporting requirements, administrative red tape and limitations on how they can spend funding. These programs need to be more efficiently administered by NHTSA so that more of the federal funding can work towards improving safety instead of expending resources on demonstrating that the state meets the federal requirements to receive the funding.

GHSA appreciates the opportunity to submit comments and looks forward to working with U.S. DOT to streamline the administration of highway safety grants and reduce the regulatory burden on states.

Regards,

A handwritten signature in black ink that reads "Jonathan Adkins". The signature is written in a cursive, slightly slanted style.

Jonathan Adkins  
Chief Executive Officer  
Governors Highway Safety Association

## Appendix A

### Reduce Emphasis on PP&E

Underlying Statute: Title 23 USC §402(b)(1)(B)

(1) Administrative requirements.—The Secretary shall not approve a State highway safety program under this section which does not—

...

(B) provide for a comprehensive, data-driven traffic safety program that results from meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities;

Resulting NHTSA Regulations: Title 23 CFR

*Proposed changes to the regulations indicated in red.*

§ 1300.2

*Triennial Highway Safety Plan (triennial HSP)* means the document that the State submits once every three fiscal years documenting its highway safety program, including the State's highway safety planning process and problem identification, ~~public participation and engagement~~, performance plan, countermeasure strategy for programming funds, and performance report.

§ 1300.11(b)

~~(2) **Public participation and engagement**~~—

~~(i) **Triennial HSP engagement planning.** Description of the State's public participation and engagement planning efforts in the highway safety planning process and program, including—~~

~~(A) A statement of the State's starting goals for the public engagement efforts, including how the public engagement efforts will contribute to the development of the State's highway safety program, including countermeasure strategies for programming funds;~~

~~(B) Identification of the affected and potentially affected communities, including particular emphasis on underserved communities and communities overrepresented in the data, (i.e., what communities did the State identify at the outset of the process) and a description of how those communities were identified;~~

~~(ii) **Triennial HSP engagement outcomes.** A narrative description of the outcomes of the State's engagement efforts in the highway safety planning process, including—~~

~~(A) The steps taken by the State to produce meaningful engagement with affected communities, including—~~

~~(1) Engagement opportunities conducted and a description of how those opportunities were designed to reach the communities identified in paragraph (b)(2)(i)(B) of this section;~~

~~(2) Accessibility measures implemented by the State in its outreach efforts and in conducting engagement opportunities;~~

~~(B) The results of the engagement opportunities conducted, including—~~

~~(1) A description of attendees and participants, and, to the extent feasible, whether those participants are members of the affected communities identified in paragraph (2)(i)(B);~~

~~(2) A summary of the issues covered; and~~

~~(C) How the affected communities' comments and views have been incorporated into the development of the triennial HSP.~~

~~(iii) **Ongoing engagement planning.** A description of the public participation and engagement efforts in the State highway safety program that the State plans to undertake during the three-year period covered by the triennial HSP, including—~~

~~(A) A statement of the State's goals for the public engagement efforts;~~

~~(B) Identification of the affected and potentially affected communities, including particular emphasis on underserved communities and communities overrepresented in the data (*i.e.*, what communities did the State identify at the outset of the process), and a description of how those communities were identified;~~

~~(C) The steps the State plans to take to reach and engage those communities, including accessibility measures implemented by the State in its outreach efforts and in conducting engagement opportunities; and~~

~~(D) How the affected communities' comments and views will be incorporated into the decision-making process.~~

§ 1300.35(b)

(b) **Activity report.**

(1) An explanation of reasons for projects that were not implemented;

~~(2) A narrative description of the public participation and engagement efforts carried out and how those efforts informed projects implemented under countermeasure strategies during the grant year;~~

(3) A description of the State's evidence-based enforcement program activities, including discussion of community collaboration efforts and efforts to support data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities; and

(4) Submission of information regarding mobilization participation (e.g., participating and reporting agencies, enforcement activity, citation information, paid and earned media information).

## **Reduce Local Expenditure Reporting Burden**

Underlying Statute: Title 23 USC § 402(b)(1)(C)

(1) Administrative requirements.—The Secretary shall not approve a State highway safety program under this section which does not—

...

(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs;

Resulting NHTSA Regulations: Title 23 CFR § 1300.13(b) and Appendix A

*Proposed changes to the regulations indicated in red.*

§ 1300.13(b)

~~(b) **Participation by political subdivisions (local expenditure requirement)**—~~

~~(1) **Determining local expenditure.** In determining whether a State meets the requirement that 40 percent (or 95 percent for Indian tribes) of Section 402 funds be expended by political subdivisions (also referred to as the local expenditure requirement) in a fiscal year, NHTSA will apply the requirement sequentially to each fiscal year's apportionments, treating all apportionments made from a single fiscal year's authorizations as a single amount for this purpose. Therefore, at least 40 percent of each State's apportionments (or at least 95 percent of the apportionment to the Secretary of the Interior) from each year's authorizations must be used in the highway safety programs of its political subdivisions prior to the end of the fiscal year.~~

~~(2) **Direct expenditures by political subdivisions.** When Federal funds apportioned under 23 U.S.C. 402 are expended by a political subdivision under a subaward from the State, such expenditures clearly qualify as part of the required local expenditure. A political subdivision may expend funds through direct performance of projects (including planning and administration of eligible highway safety project related activities) or by entering into contracts or subawards with other entities (including non-profit entities) to carry out projects on its behalf.~~

~~(3) **Expenditures by State on behalf of a political subdivision.** Federal funds apportioned under 23 U.S.C. 402 that are expended by a State on behalf of a specific political subdivision (either through direct performance of projects or by entering into contracts or subawards with other entities) may qualify as part of the required local expenditure, provided there is evidence of the political subdivision's involvement in identifying its traffic safety need(s) and input into implementation of the activity within its jurisdiction. A State may not arbitrarily ascribe State agency expenditures as "on behalf of a local government." Such expenditures qualify if—~~

~~(i) The specific political subdivision is involved in the planning process of the State's highway safety program (for example, as part of the public participation described in § 1300.11(b)(2), as part of the State's planning for the annual grant application, or as part of ongoing planning processes), and the State then enters into agreements based on identification of need by the political subdivision and implements the project or activity accordingly. The State must maintain documentation that shows the political subdivision's participation in the planning processes (e.g., meeting minutes, data submissions, etc.), and also must obtain written acceptance by the political subdivision of the project or activity being provided on its behalf prior to implementation.~~

~~(ii) The political subdivision is not involved in the planning process of the State's highway safety program, but submits a request for the State to implement a project on its behalf. The request does not need to be a formal application but should, at minimum, contain a description of the political subdivision's problem identification and a description of where and/or how the project or activity should be deployed to have effect within political subdivision (may include: identification of media outlets to run advertising, locations for billboard/sign placement or enforcement activities, schools or other venues to provide educational programming, specific sporting events/venues, etc.).~~

~~(4) **Allocation of qualifying costs.** Expenditures qualify as local expenditures only when the expenditures meet the qualification criteria described in paragraphs (b)(2) and (3) of this section. In some cases, only a portion of the expenditures under a given project may meet those requirements. States must allocate funds in proportion to the amount of costs that can be documented to meet the requirements for a specific political subdivision.~~

(5) **Waivers.** While, in extraordinary circumstances, the requirement for participation by political subdivisions may be waived in whole or in part by the NHTSA Administrator, it is expected that each State program will generate and maintain political subdivision participation at the level specified in the Federal statute so that requests for waivers are minimized. Where a waiver is requested, however, the State shall submit a written request describing the extraordinary circumstances that necessitate a waiver, or providing a conclusive showing of the absence of legal authority over highway safety activities at the political subdivision levels of the State, and must recommend the appropriate percentage participation to be applied in lieu of the required 40 percent or 95 percent (for Indian Tribes) local expenditure.

Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants

*[Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.]*

...

Section 402 Requirements

...

At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or on behalf of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and on behalf of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)

**Reduce Burdensome Traffic Enforcement Reporting Requirements**

Underlying Statute: Title 23 USC § 402(b)(1)(E)

(1) Administrative requirements.—The Secretary shall not approve a State highway safety program under this section which does not—

...

(E) as part of a comprehensive program, support-

(i) data-driven traffic safety enforcement programs that foster effective community collaboration to increase public safety; and

(ii) data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities; and

Resulting NHTSA Regulations: Title 23 CFR § 1300.35(b)(3) and Appendix A

*Proposed changes to the regulations indicated in red.*

§ 1300.35(b)(3)

(b) **Activity report.**

(1) An explanation of reasons for projects that were not implemented;

- (2) A narrative description of the public participation and engagement efforts carried out and how those efforts informed projects implemented under countermeasure strategies during the grant year;
- ~~(3) A description of the State's evidence-based enforcement program activities, including discussion of community collaboration efforts and efforts to support data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities; and~~
- (4) Submission of information regarding mobilization participation (e.g., participating and reporting agencies, enforcement activity, citation information, paid and earned media information).

Appendix A to Part 1300—Certifications and Assurances for Highway Safety Grants

*[Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.]*

...

Section 402 Requirements

...

- (5) As part of a comprehensive program, the State will support a data-based traffic safety enforcement program that fosters effective community collaboration to increase public safety, and data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities. (23 U.S.C. 402(b)(1)(E))