

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866,
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Boeing:** Docket No. FAA-2008-0413; Directorate Identifier 2008-NM-003-AD.

### Comments Due Date

(a) We must receive comments by June 9, 2008.

### Affected ADs

(b) None.

### Applicability

(c) This AD applies to Boeing Model 737-600, -700, -700C, -800, -900, and 900ER series airplanes, certificated in any category; line numbers 1 through 2196 inclusive.

### Unsafe Condition

(d) This AD results from a report of a rod end fracture on rudder Power Control Unit (PCU) control rod, which is similar to the ones used for the elevator tab pushrods. Analysis revealed that the fractured rod end had an incorrect hardness, which had probably occurred during the manufacture of the control rod. We are issuing this AD to prevent fracture of the elevator tab pushrod ends, which could result in excessive in-flight vibrations of the elevator tab, possible loss of the elevator tab, and consequent loss of controllability of the airplane.

### Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

### Pushrod Replacement

(f) At the time specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737-27-1284, dated November 28, 2007; except, where the service bulletin specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD: Replace the pushrods for the left and right elevator tab control mechanisms with new, improved pushrods by doing all the actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737-27-1284, dated November 28, 2007.

### Parts Installation

(g) As of the effective date of this AD, no person may install a pushrod assembly, part number 65-45166-24, on any airplane.

### Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6421; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District

Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

Issued in Renton, Washington, on April 15, 2008.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E8-8911 Filed 4-23-08; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 924

[FHWA Docket No. FHWA-2008-0009]

**RIN 2125-AF25**

### Highway Safety Improvement Program

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rule making (NPRM); request for comments.

**SUMMARY:** The purpose of this notice of proposed amendments is to revise Part 924 to incorporate changes to the Highway Safety Improvement Program (HSIP) that resulted from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), as well as to reflect changes in the overall program that have evolved since 23 CFR part 924 was originally written.

**DATES:** Comments must be received on or before June 23, 2008.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue, SE., Washington, DC 20590, or submit electronically at <http://www.regulations.gov> or fax comments to (202) 493-2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments

electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may visit <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Erin Kenley, Office of Safety, (202) 366–8556; or Raymond Cuprill, Office of the Chief Counsel, (202) 366–0791, Federal Highway Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access and Filing**

You may submit or access all comments received by the DOT online through <http://www.regulations.gov>. Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

**Background**

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (known in short as SAFETEA–LU). SAFETEA–LU established a new core Highway Safety Improvement Program (HSIP) structured and funded to make significant progress in reducing highway fatalities. Apportionments for the program are made in accordance with 23 U.S.C. 104(b)(5), with the statutory requirements for the program established in section 148 of the same title. Following the adoption of SAFETEA–LU, FHWA issued several guidance documents<sup>1</sup> to provide States with information regarding the new

legislation. The FHWA proposes to amend the regulations at 23 CFR part 924 Highway Safety Improvement Program to incorporate the new statutory requirements and to provide State and local safety partners with information on the purpose, definitions, policy, program structure, planning, implementation, evaluation, and reporting of HSIP. The proposed language follows the same format and section titles as the existing provisions in part 924, however, the following amendments are proposed.

*Section 924.1 Purpose*

The FHWA proposes to add evaluation to the list of components of a comprehensive HSIP. While evaluation has always been a requirement of the HSIP, the FHWA proposes this change to emphasize that evaluation is a critical element of the program and the results of the evaluation shall be used as inputs into the development of new projects. Evaluation is a requirement of the program per 23 U.S.C. 148(c)(1)(C) including evaluation of the State's strategic highway safety plan (SHSP) on a regular basis.

*Section 924.3 Definitions*

The FHWA proposes to add 17 definitions. The FHWA proposes to add definitions for “highway safety improvement program,” “highway safety improvement project,” “high risk rural road,” “safety projects under any other section,” and “strategic highway safety plan” using the definitions in 23 U.S.C. 148(a) as a basis for the proposed definitions. The FHWA also proposes to add definitions for the following terms: “highway-rail grade crossing protective devices,” “integrated interoperable emergency communication equipment,” “interoperable emergency communications system,” “operational improvements,” “public road,” “hazard index formula,” “public grade crossing,” “road safety audit,” “safety data,” “safety stakeholder,” “serious injury,” and “transparency report.” These terms are used in the text of the proposed regulations.

*Section 924.5 Policy*

The FHWA proposes to revise this section to indicate that in addition to developing and implementing a HSIP, each State shall evaluate the program on a continuing basis. The FHWA believes that evaluation is a critical component of the policy because it enables States to determine the success of their programs. The FHWA proposes to amend the section to indicate that the overall objective of the HSIP shall be to

decrease the potential for crashes and to significantly reduce fatalities and serious injuries from crashes on all public roads. The FHWA proposes to include the word “significantly” to correspond with statutory language in 23 U.S.C. 148(b)(2). The FHWA proposes adding the phrase “fatalities and serious injuries resulting from crashes” to also correspond to the statutory language describing the program purpose and also to explicitly emphasize that the goal is to reduce fatalities and serious injuries, rather than merely the “number and severity of accidents” referenced in existing part 924.

The FHWA also proposes adding two additional paragraphs (b and c) to this section to provide information about the funding mechanisms available for highway safety improvement projects, as well as to indicate the period of availability for the funds. The FHWA proposes to add paragraph (b) to emphasize that States shall consider safety projects and activities that maximize opportunities to advance safety by addressing locations and treatments with the highest potential for future crash reduction. The FHWA recommends that States use their funds to maximize the safety benefits, such as making low-cost safety improvements in areas yielding relatively high safety impacts. The FHWA proposes to add paragraph (c) to clarify that improvements to safety features that are routinely provided as part of broader Federal-aid projects should be funded by the same source as the broader project. States should integrate safety elements into all roadway projects, regardless of the funding source. States should consider using HSIP for low-cost, high-impact projects in order to use available funding as efficiently and effectively as possible.

The purpose of this policy section is to promote the adoption by the States of proactive and aggressive measures, as well as reactive activities, in their safety programs.

*Section 924.7 Program Structure*

The FHWA proposes to add a paragraph requiring that the HSIP in each State include a data-driven SHSP and a resulting implementation through all roadway improvement projects, in addition to highway safety improvement projects. The proposed language would require that the HSIP include projects for construction and operational improvements on high risk rural roads and the elimination of hazards at railway-highway grade crossings. The FHWA proposes these changes to clarify that a SHSP is to be data-driven, and

<sup>1</sup> The following guidance documents: “HSIP Funds 10 Percent Flexibility Implementation Guidance,” “Strategic Highway Safety Plans: A Champions Guide to Saving Lives,” “High Risk Rural Roads Program (HRRRP) Guidance,” “Guidance Highway Safety Improvement Program 23 U.S.C. 148(c)(1)(D) ‘5 Percent Report,’” “Guidance on 23 U.S.C. 130 Annual Reporting Requirements for Railway-Highway Crossings,” and “Highway Safety Improvement Program Reporting Requirements 23 U.S.C. 148(g)” can be found on FHWA's Web site at <http://safety.fhwa.dot.gov>.

that SHSPs and the high risk rural roads program are a new part of the HSIP in 23 U.S.C. 148.

The FHWA also proposes to modify the existing language in this section to require that each State's HSIP include processes for the evaluation of the SHSP, HSIP, and highway safety improvement projects. While evaluation has always been a requirement of the HSIP, FHWA proposes this change to be consistent with other proposed changes that strengthen the requirement for evaluation of highway safety plans, programs, and projects, such as the evaluation requirement of the SHSP.

#### Section 924.9 Planning

The FHWA proposes to revise much of this section in order to provide more information to States regarding the planning process of HSIPs. The FHWA proposes to reorganize this section and add more detail regarding individual elements of the planning process.

The FHWA proposes the following five main elements that the planning process of the HSIP shall incorporate:

(1) A process for collecting and maintaining a record of crash, roadway, traffic, vehicle, case or citation adjudication, and injury data on all public roads, including the characteristics of both highway and train traffic for railway-highway grade crossings;

(2) A process for advancing the State's capabilities for safety data collection and analysis;

(3) A process for analyzing available safety data;

(4) A process for conducting engineering studies (such as road safety audits) of hazardous locations, sections, and elements to develop highway safety improvement projects; and

(5) A process for establishing priorities for implementing a schedule of highway safety improvement projects.

While the first element resembles the one in existing part 924, FHWA proposes to expand it to include collecting and maintaining a record of crash, roadway, traffic, vehicle, case or citation adjudication, and injury data on all public roads. The FHWA proposes this change to bring additional data sources into the planning process and to encourage States to make their databases more comprehensive. The requirement for comprehensive databases is also consistent with 23 U.S.C. 408.

The FHWA proposes to add paragraph (2) to advance States' improvement of capabilities for data collection and analysis, including the improvement of the timeliness, accuracy, completeness, uniformity, integration, and accessibility of safety data or traffic

records. The FHWA proposes this language to be consistent with 23 U.S.C. 148 and 408.

The FHWA proposes to expand paragraph (3) [formerly paragraph (2)] to provide more detailed information regarding the processes involved in developing a data-driven program. The proposed revision to this section also provides four paragraphs with additional information on the components of a data-driven program that States must develop. These components include:

(i) Developing an HSIP in accordance with 23 U.S.C. 148(c)(2) that identifies highway safety improvement projects on the basis of crash experience or crash potential and establishes the relative severity of those locations, and that analyzes the results achieved by highway safety improvement projects in setting priorities for future projects. The FHWA proposes this item to require that the States develop a data-driven program where projects and priorities are based on crash data, crash severity, and other relevant safety information. The proposal also requires that the States use information from their evaluation process to set priorities for future projects.

(ii) Developing and maintaining a data-driven SHSP in consultation with safety stakeholders that makes effective use of crash data, addresses engineering, management, operation, education, enforcement, and emergency services, and considers safety needs on all public roads. In addition, the SHSP should identify key emphasis areas, adopt performance-based goals, establish priorities for implementation and process for evaluation, and obtain approval by the Governor of the State, or a responsible State agency that is delegated by the Governor of the State. The process by which the State develops the SHSP shall be approved by the FHWA Division Administrator for that State. The proposed elements in this section implement the statutory requirements of 23 U.S.C. 148.

(iii) Developing a High Risk Rural Roads program using safety data that identifies eligible locations on State and non-State owned roads, and analyzes the highway safety problem to diagnose safety concerns, identify potential countermeasures, make project selections, and prioritize high risk rural roads projects. The proposed elements in this section also implement the statutory requirements of 23 U.S.C. 148.

(iv) Developing a Railway-Highway Grade Crossing Program. This item is contained in existing part 924; however, FHWA proposes minor edits to clarify the content.

The FHWA proposes to expand paragraph (4) [formerly paragraph (3)] to include road safety audits of hazardous locations as processes that may be used to develop highway safety improvement projects. The FHWA proposes this change because road safety audits are a valuable tool that has been developed and used over the past 10 years in the United States to aid practitioners in enhancing highway/road safety.

The FHWA proposes to expand paragraph (5) [formerly paragraph (4)] to indicate that the process for establishing priorities for implementing highway safety improvement projects shall also include a schedule of highway safety improvement projects for hazard correction and hazard prevention. The FHWA also proposes to relocate the last three sentences of former paragraph (4) to paragraph (3)(iv), because they relate to Railway-Highway Grade Crossings. The FHWA also proposes to include additional language to this item to expand the process for establishing priorities for implementing a schedule of highway safety improvement projects to include consideration of the strategies in the SHSP, correction and prevention of hazardous conditions, and integration of safety in the transportation planning process, under 23 CFR part 450, including the statewide, and metropolitan where applicable, long-range plans, the Statewide Transportation Planning Improvement Program and the Metropolitan Transportation Improvement Program where applicable. This proposed additional information incorporates more key elements into the planning process and is designed to tie project planning to the SHSP and to reflect the proactive qualities of section 148. Referencing 23 U.S.C. 134 and 135 would reinforce the link between transportation planning and safety. This safety requirement was introduced in the Transportation Equity Act for the 21st Century (TEA-21) and is included in 23 U.S.C. 135(c)(1)(B).

The FHWA also proposes to relocate existing paragraph (b) regarding Railway-Highway grade crossings to paragraph (a)(3)(iv)(D) in order to place all Railway-Highway Grade Crossing planning items in one area.

The FHWA proposes to expand paragraph (b) [formerly paragraph (c)] to include references to 23 U.S.C. 130, 133, 148, and 505. As part of this change, the FHWA proposes to clarify that funds made available through 23 U.S.C. 104(f) may be used to fund safety planning in metropolitan areas.

The FHWA proposes to add a new paragraph (c) to specify that highway safety improvement projects shall be

carried out as part of the Statewide and Metropolitan Transportation Improvement Planning Processes consistent with the requirements of 23 U.S.C. 134 and 135 and 23 CFR part 450. The FHWA proposes this new item to incorporate the statutory requirements of section 148 and to link safety to the transportation planning process.

#### *Section 924.11 Implementation*

The FHWA proposes to expand this section to provide more detailed explanations regarding the implementation requirements for HSIPs.

The FHWA proposes an editorial change to paragraph (a) to relocate the reference to procedures set forth in 23 CFR part 630, subpart A to be a new paragraph (j). The FHWA proposes to correct the reference to 23 CFR part 630 Subpart A to include its correct title: Preconstruction Procedures: Project Authorization and Agreements.

The FHWA proposes to delete existing paragraph (b) regarding funds apportioned under 23 U.S.C. 152, Hazard Elimination Program, which was repealed by SAFETEA-LU. Funds for those programs are now apportioned under 23 U.S.C. 104(b)(5).

To incorporate the provisions in 23 U.S.C. 148, the FHWA proposes to add paragraph (b) that describes that a State is eligible to use up to 10 percent of the amount apportioned under 23 U.S.C. 104(b)(5) for a fiscal year to carry out safety projects under any other section of Title 23, United States Code, consistent with the SHSP and as defined in 23 U.S.C. 148(a)(4), if the State can certify that it has met infrastructure safety needs relating to railway-highway grade crossings and highway safety improvement projects for a given fiscal year. The proposed changes also establish the approval process with which States must comply, including the submission of written requests to the FHWA Division Administrator.

A new paragraph (c) is also proposed which describes funding set aside from 23 U.S.C. 104(b)(5) for construction and operational improvements on high risk rural roads, as defined in 23 U.S.C. 148(a)(1). It includes descriptions of how high risk rural roads funds are to be used.

The FHWA proposes to modify paragraph (d) [formerly paragraph (c)] to clarify the requirements for the use of funds set aside pursuant to 23 U.S.C. 130(e) for railway-highway grade crossings. The FHWA proposes to include the United States Code reference to 23 U.S.C. 130(f) for funds that must be made available for the installation of grade crossing protective

devices. In addition, FHWA proposes to include a reference to 23 U.S.C. 130(k), which specifies that no more than 2 percent of these apportioned funds may be used by the State for compilation and analysis of safety data in support of the annual report to the FHWA Division Administrator required by section 924.15(a)(2) of this part.

The FHWA proposes to revise paragraph (e) [formerly paragraph (d)] to delete outdated references to section 104(b)(1) of the Federal-Aid Highway Act of 1978 and section 103(a) of the Highway Improvement Act of 1982. The FHWA also proposes to delete existing paragraph (e), which references 23 U.S.C. 219, Safer Off-System Roads, which was repealed by Public Law 100-17, title I, Sec. 133(e)(1), Apr. 2, 1987, 101 Stat. 173.

The FHWA proposes to delete existing paragraph (f), which references 23 CFR part 650, subpart D (Special Bridge Replacement Program) as a source of funding for major safety defects on bridges. The FHWA believes that because this item describes funding eligibility for a very specific activity in the context of the Special Bridge Replacement Program, it should only be described and addressed within subpart D of part 650, rather than as part of the HSIP.

The FHWA proposes to add two new paragraphs regarding funding. Proposed paragraph (g) describes that all safety projects funded under 23 U.S.C. 104(b)(5), including safety projects under any other section of title 23, shall be accounted for in the statewide transportation improvement program and reported on annually, in accordance with section 924.15. Proposed paragraph (h) describes that the Federal share of the cost for most highway safety improvement projects carried out with funds apportioned to a State under 23 U.S.C. 104(b)(5) shall be 90 percent. In accordance with 23 U.S.C. 120(a) or (b), the Federal share may be increased to a maximum of 95 percent by the sliding scale rates for States with a large percentage of Federal lands. Projects such as roundabouts, traffic control signalization, safety rest areas, pavement markings, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier end treatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may be funded at up to 100 percent Federal share, except not more than 10 percent of the sums apportioned under 23 U.S.C. 104 for any fiscal year shall be used at this Federal share rate. In addition, for railway-highway grade crossings, the Federal

share may amount up to 100 percent for projects for signing, pavement markings, active warning devices and crossing closures, subject to the 10 percent limitation for funds apportioned under 23 U.S.C. 104 in a fiscal year.

#### *Section 924.13 Evaluation*

The FHWA proposes to revise this section to clearly describe the evaluation process of the HSIP, the information that is to be used, and the mechanisms to be used for financing evaluations.

The FHWA proposes to expand paragraph (a) regarding the evaluation process to require the State to evaluate the overall HSIP, the individual highway safety improvement projects, and the SHSP. Within paragraph (a), FHWA proposes to restructure the existing paragraphs (a)(1) through (a)(3) into two paragraphs. Proposed paragraph (a)(1) would require that the evaluation include a process to analyze and assess the results achieved by the highway safety improvement projects, including determining the effect that the projects have had in reducing the number of crashes, fatalities and serious injuries, or potential crashes, including: (i) A record of the number of crashes, serious injuries, and fatalities before and after the implementation of a project; (ii) A comparison of the number of crashes, serious injuries, and fatalities after the implementation of a project with the number expected if the improvement had not been made; and (iii) For projects developed to address crash potential, the safety benefits derived from the various means and methods used to mitigate or eliminate hazards. The FHWA also proposes a new paragraph (a)(2) to require that the States have a process to evaluate the overall SHSP on a regular basis as determined by the State and in consultation with FHWA to: (i) Ensure the accuracy and currency of the safety data; (ii) identify factors that affect the priority of emphasis areas, strategies, and proposed improvements; and (iii) identify issues that demonstrate a need to revise or otherwise update the SHSP. The FHWA proposes this evaluation of the SHSP because it believes that the strategies in the SHSP must be periodically assessed to ensure continued progress in reducing fatalities and serious injuries. In addition, evaluation of the SHSP is a requirement in 23 U.S.C. 148(c).

The FHWA proposes to expand existing paragraph (b) to require that the information resulting from the processes developed in proposed section 924.13(a)(1) be used for setting priorities for highway safety improvement projects, for assessing the overall

effectiveness of the HSIP, and for the reporting required by section 924.15. The FHWA proposes this additional language to provide synergy between the evaluation process and the setting of priorities for projects, the assessment of the effectiveness of the program, and the requirement for reporting the results. It also emphasizes the iterative nature of the planning, implementation, and evaluation process.

The FHWA proposes to revise the funding sources for the evaluation process in paragraph (c) to reflect the current applicable funding sections within Title 23, United States Code, which are 104(b)(1), (3), and (5), 105, 402, 505, and for metropolitan planning areas, 23 U.S.C. 104(f).

#### *Section 924.15 Reporting*

The FHWA proposes to expand paragraph (a) of this section in order to specify the requirements for States to submit annual reports. These reports would: (1) Describe progress in implementing the HSIP and the effectiveness of the program including its projects; (2) describe progress in implementing railway-highway grade crossing improvements and assess their effectiveness; and (3) identify not less than 5 percent of a State's highway locations exhibiting the most severe safety needs (termed the transparency report) that (i) emphasizes fatality and serious injury data; (ii) uses the most recent 3 to 5 years of crash data; (iii) identifies the data years used and describes the extent of coverage of all public roads included in the data analysis; (iv) identifies the methodology used to determine how the locations were selected; and (v) is provided in a format compliant with the requirements of 29 U.S.C. 794(d), section 508 of the Rehabilitation Act. The FHWA proposes to require that the States submit their transparency reports in a manner that is Section 508 complaint so that such reports are accessible to all members of the public, including those with disabilities.

The FHWA proposes to revise the funding sources for the reporting process in paragraph (b) to reflect the current applicable funding sections within Title 23, United States Code, which are 104(b)(1), (3), and (5), 105, 402, 505, and for metropolitan planning areas, 23 U.S.C. 104(f).

#### **Rulemaking Analysis and Notices**

##### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined that this proposed action would not be a

significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. These changes are not anticipated to adversely affect, in any material way, any sector of the economy. The proposed changes in Part 924 incorporate provisions outlined in 23 U.S.C. 148 and provide additional information regarding the purpose, definitions, policy, program structure, planning, implementation, evaluation, and reporting of HSIPs. The FHWA believes that this policy for the development, implementation, and evaluation of a comprehensive HSIP in each State will greatly improve roadway safety. These changes would not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Therefore, a full regulatory evaluation is not required.

##### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), FHWA has evaluated the effects of these changes on small entities and has determined that this action would not have a significant economic impact on a substantial number of small entities.

##### *Unfunded Mandates Reform Act of 1995*

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48, March 22, 1995). To the extent the proposed revisions would require expenditures by the State and local governments for the planning, implementation, evaluation, and reporting of the HSIPs and Federal-aid projects, these activities would not be Unfunded Mandates because these activities are reimbursable. This proposed action would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$128.1 million or more in any one year (2 U.S.C. 1532) period to comply with these changes.

##### *Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and FHWA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this rulemaking will not preempt any State law or State regulation or affect the

States' ability to discharge traditional State governmental functions.

##### *Executive Order 13175 (Tribal Consultation)*

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that it would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

##### *Executive Order 13211 (Energy Effects)*

The FHWA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

##### *Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

##### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. Since this proposed action does require States to write reports, the FHWA requested approval from OMB under the provisions of the PRA. The FHWA received approval from OMB through March 31, 2010. The OMB control number is 2125-0025.

##### *Executive Order 12988 (Civil Justice Reform)*

This proposed action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

*Executive Order 13045 (Protection of Children)*

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not concern an environmental risk to health or safety that may disproportionately affect children.

*Executive Order 12630 (Taking of Private Property)*

The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*National Environmental Policy Act*

The FHWA has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that it would not have any effect on the quality of the environment.

*Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 23 CFR Part 924**

Highway safety, Highways and roads, Motor vehicles, Railroads, Railroad safety, Safety, Transportation.

Issued on: April 15, 2008.

**James D. Ray,**

*Acting Federal Highway Administrator.*

In consideration of the foregoing, the FHWA proposes to revise part 924 to read as follows:

**PART 924—HIGHWAY SAFETY IMPROVEMENT PROGRAM**

Sec.

- 924.1 Purpose.
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**Authority:** 23 U.S.C. 104(b)5, 130, 148, 315, and 402; 49 CFR 1.48(b).

**§ 924.1 Purpose.**

The purpose of this regulation is to set forth policy for the development, implementation, and evaluation of a comprehensive highway safety improvement program (HSIP) in each State.

**§ 924.3 Definitions.**

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. In addition, the following definitions apply:

*Hazard index formula* means any safety or crash prediction formula used for determining the relative likelihood of hazardous conditions at railway-highway grade crossings, taking into consideration weighted factors, and severity of crashes.

*High risk rural road* means any roadway functionally classified as a rural major or minor collector or a rural local road—

(1) On which the crash rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

(2) That will likely have increases in traffic volume that are likely to create a crash rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

*Highway* means, in addition to those items listed in 23 U.S.C. 101(a), those facilities specifically provided for the accommodation and protection of pedestrians and bicyclists.

*Highway-rail grade crossing protective devices* means those traffic control devices in the Manual on Uniform Traffic Control Devices<sup>1</sup> specified for use at such crossings; and system components associated with such traffic control devices, such as track circuit improvements and interconnections with highway traffic signals.

*Highway safety improvement program* means the program carried out under 23 U.S.C. 130 and 148.

*Highway safety improvement project* means a project described in the State strategic highway safety plan (SHSP) that corrects or improves a hazardous road location or feature, or addresses a highway safety problem. Projects include, but are not limited to, the following:

(1) An intersection safety improvement.

(2) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(3) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists, pedestrians or the disabled.

(4) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

(5) An improvement for pedestrian or bicyclist safety or safety of the disabled.

(6) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under 23 U.S.C. 130, including the separation or protection of grades at railway-highway crossings.

(7) Construction of a railway-highway crossing safety feature, including installation of highway-rail grade crossing protective devices.

(8) The conduct of an effective traffic enforcement activity at a railway-highway crossing.

(9) Construction of a traffic calming feature.

(10) Elimination of a roadside obstacle.

(11) Improvement of highway signage and pavement markings.

(12) Installation of a priority control system for emergency vehicles at signalized intersections.

(13) Installation of a traffic control or other warning device at a location with high crash potential.

(14) Transportation safety planning.

(15) Improvement in the collection and analysis of crash data.

(16) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including law enforcement assistance) relating to work zone safety.

(17) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

(18) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

(19) Installation and maintenance of signs (including fluorescent yellow-green signs) at pedestrian-bicycle crossings and in school zones.

(20) Construction, installation, and operational improvements on high risk rural roads.

(21) Conducting road safety audits.

*Integrated interoperable emergency communication equipment* means equipment that supports an interoperable emergency communications system.

<sup>1</sup>The MUTCD is approved by the FHWA and recognized as the national standard for traffic control on all public roads. It is incorporated by reference into the Code of Federal Regulations at 23 CFR part 655. It is available on the FHWA's Web site at <http://mutcd.fhwa.dot.gov> and is available for inspection and copying at the FHWA Washington, DC Headquarters and all FHWA Division Offices as prescribed at 49 CFR part 7.

*Interoperable emergency communications system* means a network of hardware and software that allows emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

*Operational improvements* mean capital improvements for installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems; integrated traffic control systems; incident management programs; transportation demand management facilities; strategies and programs; and such other capital improvements to public roads as the Secretary may designate by regulation.

*Public grade crossing* means a railway-highway grade crossing where the roadway is under the jurisdiction of and maintained by a public authority and open to public travel. All roadway approaches must be under the jurisdiction of the public roadway authority, and no roadway approach may be on private property.

*Public road* means any highway, road, or street under the jurisdiction of and maintained by a public authority and open to public travel.

*Road Safety Audit* means a formal safety performance examination of an existing or future road or intersection by an independent audit team.

*Safety data* includes, but is not limited to, crash, roadway, traffic, vehicle, case or citation adjudication, and injury data on all public roads including, for railway-highway grade crossings, the characteristics of both highway and train traffic.

*Safety projects under any other section* means safety projects eligible for funding under Title 23, United States Code, including projects to promote safety awareness, public education, and projects to enforce highway safety laws.

*Safety stakeholder* means agencies, organizations, or parties described in 23 U.S.C. 148(a)(6)(A), and includes, but is not limited to, local, State, and Federal transportation agencies and tribal governments.

*Serious injury* means an incapacitating injury or any injury, other than a fatal injury, which prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

*State* means any one of the 50 States and the District of Columbia.

*Strategic highway safety plan* means a comprehensive, data-driven safety plan developed, implemented, and evaluated in accordance with 23 U.S.C. 148.

*Transparency report* means the report required annually under 23 U.S.C. 148(c)(1)(D) and in accordance with § 924.15 of this part that describes not less than 5 percent of a State's highway locations exhibiting the most severe safety needs.

#### § 924.5 Policy.

(a) Each State shall develop, implement, and evaluate on a continuing basis a HSIP that has the overall objective of significantly decreasing the potential for crashes and reducing fatalities and serious injuries resulting from crashes on all public roads.

(b) Under 23 U.S.C. 148(a)(3), a variety of highway safety improvement projects are eligible for funding through the HSIP. In order for an eligible improvement to be funded with HSIP funds, States shall first consider whether the activity maximizes opportunities to advance safety by addressing locations and treatments with the highest potential for future crash reduction. States shall fund safety projects or activities that are most likely to reduce the number of, or potential for, fatalities and serious injuries. Safety projects under any other section of Title 23, United States Code, and funded with 23 U.S.C. 148 funds, are only eligible activities when a State is eligible to use up to 10 percent of the amount apportioned under 23 U.S.C. 104(b)(5) for a fiscal year in accordance with 23 U.S.C. 148(e). This excludes minor activities that are incidental to a specific highway safety improvement project.

(c) Other Federal-aid funds are eligible to support and leverage the safety program. Improvements to safety features that are routinely provided as part of a broader Federal-aid project should be funded from the same source as the broader project. States should address the full scope of their safety needs and opportunities on all roadway categories by using other funding sources such as Interstate Maintenance (IM), Surface Transportation Program (STP), National Highway System (NHS), and Equity Bonus (EB) funds in addition to HSIP funds.

#### § 924.7 Program structure.

(a) The HSIP in each State shall include a data-driven SHSP and the resulting implementation through highway safety improvement projects. The HSIP includes construction and

operational improvements on high risk rural roads, and elimination of hazards at railway-highway grade crossings.

(b) Each State's HSIP shall include processes for the planning, implementation, and evaluation of the SHSP, HSIP, and highway safety improvement projects. These processes shall be developed by the States and approved by the FHWA Division Administrator in accordance with this section. Where appropriate, the processes shall be developed cooperatively with officials of the various units of local governments. The processes may incorporate a range of procedures appropriate for the administration of an effective HSIP on individual highway systems, portions of highway systems, and in local political subdivisions, and when combined, shall cover all public roads in the State.

#### § 924.9 Planning.

(a) The planning process of the HSIP shall incorporate:

(1) A process for collecting and maintaining a record of crash, roadway, traffic, vehicle, case or citation adjudication, and injury data on all public roads including for railway-highway grade crossings inventory data that includes, but is not limited to, the characteristics of both highway and train traffic.

(2) A process for advancing the State's capabilities for safety data collection and analysis by improving the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State's safety data or traffic records.

(3) A process for analyzing available safety data to:

(i) Develop a HSIP in accordance with 23 U.S.C. 148(c)(2) that:

(A) Identifies highway safety improvement projects on the basis of crash experience or crash potential and establishes the relative severity of those locations;

(B) Considers the relative hazard of public railway-highway grade crossings based on a hazard index formula; and

(C) Establishes an evaluation process to analyze and assess results achieved by highway safety improvement projects and uses this information in setting priorities for future projects.

(ii) Develop and maintain a data-driven SHSP that:

(A) Is developed after consultation with safety stakeholders;

(B) Makes effective use of State, regional, and local crash data and determines priorities through crash data analysis;

(C) Addresses engineering, management, operation, education, enforcement, and emergency services;

(D) Considers safety needs of all public roads;

(E) Adopts a strategic safety goal;

(F) Identifies key emphasis areas and describes a program of projects, technologies, or strategies to reduce or eliminate highway safety hazards;

(G) Adopts performance-based goals, coordinated with other State highway safety programs, that address behavioral and infrastructure safety problems and opportunities on all public roads and all users, and focuses resources on areas of greatest need and the potential for the highest rate of return on the investment of HSIP funds;

(H) Identifies strategies, technologies, and countermeasures that significantly reduce highway fatalities and serious injuries in the key emphasis areas giving high priority to low-cost and proven countermeasures;

(I) Determines priorities for implementation;

(J) Is consistent, as appropriate, with safety-related goals, priorities, and projects in the long-range statewide transportation plan and the statewide transportation improvement program and the relevant metropolitan long-range transportation plans and transportation improvement programs that are developed as specified in 23 U.S.C. 134, 135 and 402; and 23 CFR part 450;

(K) Documents the process used to develop the plan;

(L) Proposes a process for implementation and evaluation of the plan;

(M) Is approved by the Governor of the State or a responsible State agency official that is delegated by the Governor of the State; and

(N) Has been developed using a process that was approved by the FHWA Division Administrator.

(iii) Develop a High Risk Rural Roads program using safety data that identifies eligible locations on State and non-State owned roads as defined in § 924.3, and analyzes the highway safety problem to identify safety concerns, identify potential countermeasures, make project selections, and prioritize high risk rural roads projects on all public roads.

(iv) Develop a Railway-Highway Grade Crossing program that:

(A) Considers the relative hazard of public railway-highway grade crossings based on a hazard index formula;

(B) Includes onsite inspection of public grade crossings;

(C) Considers the potential danger to large numbers of people at public grade crossings used on a regular basis by passenger trains, school buses, transit buses, pedestrians, bicyclists, or by

trains and/or motor vehicles carrying hazardous materials; and

(D) Results in a program of safety improvement projects at railway-highway grade crossings giving special emphasis to the legislative requirement that all public crossings be provided with standard signing and markings.

(4) A process for conducting engineering studies (such as roadway safety audits) of hazardous locations, sections, and elements to develop highway safety improvement projects.

(5) A process for establishing priorities for implementing a schedule of highway safety improvement projects considering:

(i) The potential reduction in the number of fatalities and serious injuries;

(ii) The cost of the projects and the resources available;

(iii) The strategies in the SHSP;

(iv) The correction and prevention of hazardous conditions;

(v) Other safety data-driven criteria as appropriate in each State; and

(vi) Integration with the statewide transportation planning process and statewide transportation improvement program, and metropolitan transportation planning process and transportation improvement program where applicable, in 23 CFR part 450.

(b) The planning process of the HSIP may be financed with funds made available through 23 U.S.C. 130, 133, 148, 402, and 505 and, where applicable in metropolitan planning areas, through 23 U.S.C. 104(f).

(c) Highway safety improvement projects shall be carried out as part of the Statewide and Metropolitan Transportation Planning Process consistent with the requirements of 23 U.S.C. 134 and 135 and 23 CFR part 450.

#### § 924.11 Implementation.

(a) The implementation of the HSIP in each State shall include a process for scheduling and implementing highway safety improvement projects in accordance with the priorities developed in accordance with § 924.9 of this part.

(b) A State is eligible to use up to 10 percent of the amount apportioned under 23 U.S.C. 104(b)(5) for each fiscal year to carry out safety projects under any other section, consistent with the SHSP and as defined in 23 U.S.C. 148(a)(4), if the State can certify that it has met infrastructure safety needs relating to railway-highway grade crossings and highway safety improvement projects for a given fiscal year. In order for a State to obtain approval:

(1) A State must submit a written request for approval to the FHWA

Division Administrator for each year that a State certifies that the requirements have been met before a State may use these funds to carry out safety projects under any other section;

(2) A State must submit a written request that describes how the certification was made, the Title 23, United States Code activities that will be funded, how the activities are consistent with the SHSP, and the dollar amount the State estimates will be used; and

(c) If a State has funds set aside from 23 U.S.C. 104(b)(5) for construction and operational improvements on high risk rural roads, in accordance with 23 U.S.C. 148(a)(1), such funds:

(1) Shall be used for safety projects that address priority high risk rural roads as determined by the State.

(2) Shall only be used for construction and operational improvements on high risk rural roads and the planning, preliminary engineering, and roadway safety audits related to specific high risk rural roads improvements.

(3) May also be used for other highway safety improvement projects if the State certifies that it has met all infrastructure safety needs for construction and operational improvements on high risk rural roads for a given fiscal year.

(d) Funds set-aside pursuant to 23 U.S.C. 148 for apportionment under the 23 U.S.C. 130(f) Railway-Highway Grade Crossing Program, are to be used to implement railway-highway grade crossing safety projects on any public road. At least 50 percent of the funds apportioned under 23 U.S.C. 130(f) must be made available for the installation of highway-rail grade crossing protective devices. The railroad share, if any, of the cost of grade crossing improvements shall be determined in accordance with 23 CFR part 646, Subpart B (Railroad-Highway Projects). In addition, up to 2 percent of the section 130 funds apportioned to a State may be used for compilation and analysis of safety data for the annual report to the FHWA Division Administrator required under § 924.15(a)(2) on the progress being made to implement the railway-highway grade crossing program.

(e) Highway safety improvement projects may also be implemented with other funds apportioned under 23 U.S.C. 104(b) subject to the eligibility requirements applicable to each program.

(f) Award of contracts for highway safety improvement projects shall be in accordance with 23 CFR part 635 and part 636, where applicable, for highway construction projects, 23 CFR part 172 for engineering and design services



contracts related to highway construction projects, or 49 CFR part 18 for non-highway construction projects.

(g) All safety projects funded under 23 U.S.C. 104(b)(5), including safety projects under any other section, shall be accounted for in the statewide transportation improvement program and reported on annually in accordance with § 924.15.

(h) The Federal share of the cost for most highway safety improvement projects carried out with funds apportioned to a State under 23 U.S.C. 104(b)(5) shall be 90 percent. In accordance with 23 U.S.C. 120(a) or (b), the Federal share may be increased to a maximum of 95 percent by the sliding scale rates for States with a large percentage of Federal lands. In accordance with 23 U.S.C. 120(c), projects such as roundabouts, traffic control signalization, safety rest areas, pavement markings, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier end treatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may be funded at up to 100 percent Federal share, except not more than 10 percent of the sums apportioned under 23 U.S.C. 104 for any fiscal year shall be used at this federal share rate. In addition, for railway-highway grade crossings, the Federal share may amount up to 100 percent for projects for signing, pavement markings, active warning devices, and crossing closures, subject to the 10 percent limitation for funds apportioned under 23 U.S.C. 104 in a fiscal year.

(i) The implementation of the HSIP in each State shall include a process for scheduling and implementing highway safety improvement projects in accordance with the procedures set forth in 23 CFR part 630, Subpart A (Preconstruction Procedures: Project Authorization and Agreements).

#### § 924.13 Evaluation.

(a) The evaluation process of the HSIP in each State shall include the evaluation of the overall HSIP, individual highway safety improvement projects, and the SHSP. It shall:

(1) Include a process to analyze and assess the results achieved by the highway safety improvement projects, including determining the effect that the projects have had in reducing the number and severity of crashes, fatalities and serious injuries, or potential crashes, and in reaching the performance goals identified in section 924.9(a)(3)(ii)(G), including:

(i) A record of the number of crashes, fatalities and serious injuries before and after the implementation of a project;

(ii) A comparison of the number of crashes, fatalities and serious injuries after the implementation of a project to the number expected if the improvement had not been made; and

(iii) For projects developed to address crash potential, the safety benefits derived from the various means and methods used to mitigate or eliminate hazards.

(2) Include a process to evaluate the overall SHSP on a regular basis as determined by the State and in consultation with the FHWA to:

(i) Ensure the accuracy and currency of the safety data;

(ii) Identify factors that affect the priority of emphasis areas, strategies, and proposed improvements; and

(iii) Identify issues that demonstrate a need to revise or otherwise update the SHSP.

(b) The information resulting from the process developed in § 924.13(a)(1) shall be used:

(1) For developing basic source data in the planning process as outlined in § 924.9(a) in accordance with paragraph (a)(1);

(2) For setting priorities for highway safety improvement projects;

(3) For assessing the overall effectiveness of the HSIP; and

(4) For reporting required by § 924.15.

(c) The evaluation process may be financed with funds made available under 23 U.S.C. 104(b)(1), (3), and (5), 105, 402, and 505, and for metropolitan planning areas, 23 U.S.C. 104(f).

#### § 924.15 Reporting.

(a) For the period of the previous July 1 through June 30, each State shall submit to the FHWA Division Administrator no later than August 31 of each year the following reports related to the HSIP in accordance with 23 U.S.C. 148(g):

(1) A report describing the progress being made to implement the State HSIP that:

(i) Describes the progress in implementing the projects, including the funds available, and the number and general listing of the type of projects initiated. The general listing of the projects initiated shall be structured to identify how the projects relate to the State SHSP or the State's safety goals and objectives and shall provide a clear description of project selection;

(ii) Assesses the effectiveness of the improvements. This section shall provide a demonstration of the overall effectiveness of the HSIP and shall include figures showing the general

highway safety trends in the State by number and by rate;

(iii) Describes the extent to which improvements contributed to specific performance goals and provides evaluation data for specific safety improvement projects that have been implemented. The evaluation data shall include basic information on the roadway such as where the project occurred, the type of improvement, the cost of improvement, and "before" and "after" crash results, and shall demonstrate whether the project achieved its purpose using benefit-cost or other methodology developed by the State; and

(iv) Describes the High Risk Rural Roads program, providing basic program implementation information, methods used to identify high risk rural roads, information assessing the High Risk Rural Roads program projects, and a summary of the overall High Risk Rural Roads program effectiveness.

(2) A report describing progress being made to implement railway-highway grade crossing improvements in accordance with 23 U.S.C. 130(g), and the effectiveness of these improvements.

(3) A transparency report describing not less than 5 percent of a State's highway locations exhibiting the most severe safety needs that:

(i) Emphasizes fatality and serious injury data;

(ii) Uses the most recent three to five years of crash data;

(iii) Identifies the data years used and describes the extent of coverage of all public roads included in the data analysis;

(iv) Identifies the methodology used to determine how the locations were selected; and

(v) Is compatible with the requirements of 29 U.S.C. 794(d), Section 508 of the Rehabilitation Act.

(b) The preparation of the State's annual reports may be financed with funds made available through 23 U.S.C. 104(b)(1), (3), and (5), 105, 402, and 505, and for metropolitan planning areas, 23 U.S.C. 104(f).

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