

that is not permissible under § 2635.1006, the contribution must be returned to the donor as soon as practicable but no later than the next reporting due date as described in paragraph (c) of this section.

(2) *Late filing of required documents and reports.* If a report is filed after the due date, the employee beneficiary forfeits the ability to accept contributions or distributions through the trust until the report is filed.

*Example 1 to paragraph (h)(2):* A Department of Labor employee establishes a legal expense fund in accordance with this subpart. Because the employee filed the trust document on February 15, the first quarterly report is due on April 30. However, the employee did not submit the first quarterly report until May 15. The employee is prohibited from accepting contributions or distributions through the trust from May 1 until May 15. Once the employee files the quarterly report, the employee may resume accepting contributions and distributions.

(3) *Continuing or other significant noncompliance.* In addition to the remedies in paragraphs (h)(1) and (2) of this section, the Office of Government Ethics has the authority to determine that an employee beneficiary may not accept contributions and distributions through the trust if there is continuing or other significant noncompliance with this subpart.

#### § 2635.1008 Termination of a legal expense fund.

(a) *Cause.* A legal expense fund may only be terminated for the following reasons:

(1) The purpose of the trust is fulfilled or no longer exists; or

(2) At the direction of the employee beneficiary.

(b) *Excess funds.* Within 90 calendar days of termination of the legal expense fund, the trustee must distribute any excess funds to an organization or organizations described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under section 501(a) of the Internal Revenue Code. Funds from the legal expense fund may not be donated to an organization that was established by the employee beneficiary, an organization in which the employee beneficiary, their spouse, or their child is an officer, director, or employee, or an organization with which the employee has a covered relationship within the meaning of § 2635.502(b)(1). The trustee has sole discretion to select the 501(c)(3) organization.

(c) *Trust termination report.* After the trust is terminated, the employee

beneficiary must file a trust termination report that contains the information required by § 2635.1007(d) for the period of the last quarter report through the trust termination date. The report also must indicate the organization to which the excess funds were donated. The report is due 30 calendar days following the termination date of the trust.

(d) *Exception for anonymous whistleblowers.* An employee beneficiary who is an anonymous whistleblower may choose to file the trust termination report anonymously through the employee beneficiary's trustee or representative with the Office of Government Ethics.

#### § 2635.1009 Pro bono legal services.

(a) *Acceptance of permissible pro bono legal services.* An employee may solicit or accept the provision of pro bono legal services for legal matters arising in connection with the employee's past or current official position, the employee's prior position on a campaign, or the employee's prior position on a Presidential Transition Team from:

(1) Any individual who is not:

(i) An agent of a foreign government as defined in 5 U.S.C. 7342(a)(2);

(ii) A lobbyist as defined by 2 U.S.C. 1602(10) who is currently registered pursuant to 2 U.S.C. 1603(a); or

(2) A person who does not have interests that may be substantially affected by the performance or nonperformance of an employee's official duties.

**Note 1 to paragraph (a):** Pursuant to § 2634.907(g) of this chapter, an employee beneficiary who is a public or confidential filer under part 2634 of this chapter must report gifts of pro bono legal services on the employee's financial disclosure report, subject to applicable thresholds and exclusions.

(b) *Role of agency ethics official.* An employee must confer with an agency ethics official to seek a determination as to whether the legal services are from a prohibited pro bono legal services provider before accepting the pro bono legal services.

*Example 1 to paragraph (b):* A Department of Justice employee is an eyewitness in an Inspector General investigation and is called to testify before Congress. A local law firm offers to represent the employee at no cost. The employee consults with an agency ethics official, who determines that the attorney who would represent the employee is neither an agent of a foreign government nor a lobbyist. However, the law firm is representing a party in a case to which the employee is assigned. The

ethics official determines that the law firm is a person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Accordingly, the employee may not accept the offer of pro bono legal services from the law firm.

*Example 2 to paragraph (b):* A Securities and Exchange Commission employee is sexually harassed by a supervisor and files a complaint. A nonprofit legal aid organization focusing on sexual harassment cases offers pro bono legal services to the employee at no cost. The employee consults with an agency ethics official, who determines that the attorney who would represent the employee is neither an agent of a foreign government nor a lobbyist, and neither the attorney nor the nonprofit legal aid organization has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Accordingly, the employee may accept the offer of pro bono legal services from the nonprofit legal aid organization.

*Example 3 to paragraph (b):* A Department of State employee is asked to testify in a legal proceeding relating to a prior position at the Department of Justice. An attorney at a large national law firm offers pro bono services to the employee. The employee confers with an agency ethics official who determines that although the attorney offering representation is neither an agent of a foreign government nor a lobbyist, the law firm is currently registered pursuant to 2 U.S.C. 1603(a) and has business before other parts of the Department of State. However, neither the attorney nor the law firm has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Accordingly, the employee may accept the offer of pro bono legal services.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0036]

RIN 2127-AM45

### Uniform Procedures for State Highway Safety Grant Programs

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notification of public meetings; request for comments (RFC).

**SUMMARY:** NHTSA is initiating a rulemaking process to implement changes to the Highway Safety Grant Program (the annual formula grants to States) in accordance with the Infrastructure Investment and Jobs Act. In order to ensure that the broadest possible cross-section of stakeholders is engaged from the onset of the process, NHTSA is publishing this RFC and announcing three public meetings to be held prior to issuing the Notice of Proposed Rulemaking (NPRM).

**DATES:** NHTSA will hold public meetings on May 2, May 4, and May 5, 2022, from 11:00 a.m. to 4:30 p.m., Eastern Daylight Time (EDT) each day. The meetings will be held virtually and provide an avenue for submission of comments. For planning purposes, NHTSA will allot time within each meeting for the topical areas outlined in this RFC, and to accommodate other issues a presenter may wish to raise. Upon registration, participants will identify whether they choose to provide verbal comments at the meeting and which topical areas they wish to address. Based on the results of that registration process, NHTSA will schedule time for each presenter, ensuring to the maximum extent practicable that all interested applicants have an opportunity for an oral presentation. However, the schedule will be on a first come first served basis. The public will also have the opportunity to submit written comments to the Docket concerning matters addressed in this notification. Written comments should be submitted no later than May 23, 2022.

**ADDRESSES:** The public meetings will be held virtually via Zoom for Government. The meetings' online links and a detailed agenda will be provided upon registration. You may send written comments, identified by the docket number listed at the beginning of this document or by the Regulatory Information Number (RIN), by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for sending comments.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery/Courier:** 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. To be sure someone is

there to help you, please call 202-366-9826 before coming.

**Instructions:** All written submissions must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change at <https://www.regulations.gov/> including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket go to <https://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202-366-9826. If going in person, please call ahead to be sure someone is there to help you.

**FOR FURTHER INFORMATION CONTACT:** For more information, contact Amy Schick, Acting Director, Office of Grants Management and Operations, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, Telephone number: (202) 366-2764. You may also contact NHTSA's Grants Management and Operations Office at [nhtsaropdprogramquestions@dot.gov](mailto:nhtsaropdprogramquestions@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background:** The "Highway Safety Grant Program," as used in this notification, refers to the annual formula grants to States, the District of Columbia, and U.S. Territories to carry out highway safety programs within their jurisdictions. NHTSA implements the Highway Safety Grant Program, in part, through regulations published at 23 CFR part 1300. The Infrastructure Investment and Jobs Act (Pub. L. 117-58) (*hereinafter* the Bipartisan Infrastructure Law) requires NHTSA to undertake a rulemaking to implement changes to the Highway Safety Grant Program consistent with statute. The statutory and regulatory changes will take effect for grants starting in Fiscal Year 2024. In order to ensure that the broadest possible cross-section of stakeholders is involved from the onset of the rulemaking process, NHTSA is publishing this RFC and will hold public meetings prior to issuing a NPRM. In addition, NHTSA seeks comments related to non-regulatory aspects of implementing the Bipartisan Infrastructure Law. All interested parties are invited to participate in this opportunity.

**Public Participation**

**Registration:** Registration is required for all attendees. There is no cost to register. Attendees should register online at the links below by April 28, 2022. Please provide your name, affiliation, email address, and indicate whether you wish to speak during the public meeting. Register at:

- May 2, 2022: [https://usdot.zoomgov.com/meeting/register/vJltfuqhrz0pGqTf\\_q-7HL9kIOdBTQKR99s](https://usdot.zoomgov.com/meeting/register/vJltfuqhrz0pGqTf_q-7HL9kIOdBTQKR99s)
- May 4, 2022: [https://usdot.zoomgov.com/meeting/register/vJlsc-ihrtgtEwg9GuV\\_2WG4KOAmTrdmkiQ](https://usdot.zoomgov.com/meeting/register/vJlsc-ihrtgtEwg9GuV_2WG4KOAmTrdmkiQ)
- May 5, 2022: <https://usdot.zoomgov.com/meeting/register/vJltdemprDljEy9ev-zPEJUQ0ht1zBeTLIA>

Each public meeting will be five hours long, with a 30-minute break at the half-way point of the meeting. Speaker registration will be on a first-come, first-served basis. As described later in this notification, NHTSA is interested in hearing presentations concerning the following topics: The National Roadway Safety Strategy (NRSS); Reducing Disparities and Increasing Community Participation; Triennial Highway Safety Plans; Annual Grant Applications; and Performance Measures. Presenters may also convey their views on other matters related to the upcoming implementation of the highway safety grants under the Bipartisan Infrastructure Law.

Through the registration link, speakers will be asked to select which of the specified topic(s) they want to address, as well as issues they may wish to raise. It is anticipated that each speaker will have five minutes to offer verbal comments per topic, but not to exceed 15 minutes total, in order to ensure that all interested presenters are given the opportunity to present their views during the day of the meeting. During this allotted time, speakers may ask clarifying questions of NHTSA and NHTSA may ask clarifying questions of speakers. When called upon to provide comments, speakers will be asked to turn on their camera and state their name and organizations/affiliation. NHTSA may adjust time allotments on a running basis during the meeting if the meeting is running ahead of schedule, to provide additional opportunities for discussion.

NHTSA is committed to providing equal access to this meeting for all participants. Persons with disabilities in need of accommodation should contact NHTSA's Grants Management Office at [nhtsaropdprogramquestions@dot.gov](mailto:nhtsaropdprogramquestions@dot.gov) or

call (202) 366-2764 and ask for Amy Schick for help with your request by April 28, 2022. Closed captioning services will be available for this meeting through the Zoom platform.

Should it become necessary to cancel or reschedule the meeting due to an unforeseen circumstance, NHTSA will take all available measures to notify registered participants as soon as possible.

The public sessions will be recorded and transcribed. Both the recording and transcription will be made available after the event on the NHTSA website, listed under the title of the public meetings.

**Written Comments:** Comments may be submitted electronically or in hard copy during the 30-day comment period. Please submit all comments no later than 30 days after the publication of this public notification, by any of the methods listed earlier in this document. Written comments should refer to the docket number above and be submitted by one of the following methods:

- **Federal Rulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery:** 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call 202-366-9826 before coming.

**Instructions:** All written comment submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below.

**Docket:** For access to the Docket, go to <https://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202-366-9826. If going in person, please call ahead to be sure someone is there to help you.

**Privacy Act:** Anyone can 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 visit <https://www.regulations.gov/privacy.html>.

**Confidential Business Information:** If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information to the Chief Counsel, NHTSA, at 1200 New Jersey Avenue SE, Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should submit a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512). To facilitate social distancing during COVID-19, NHTSA is temporarily accepting confidential business information electronically. Please see <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information> for details.

**Specific Guiding Questions:** NHTSA has identified the five broad subject areas below as specific areas on which it requests comment, but welcomes comments and presentations related to any aspect of implementing the highway safety program.

### National Roadway Safety Strategy

In 2020, 38,824 people were killed in motor vehicle crashes. In the first nine months of 2021, an estimated 31,720 people were killed in motor vehicle crashes, up an alarming 12% over 2020.<sup>1</sup> The fatality rate per 100 million vehicle miles traveled (VMT) increased by 21% from 1.11 in 2019 to 1.34 in 2020, the largest percentage increase on record. The proportion of people killed who were not in passenger vehicles (motorcyclists, pedestrians, pedalcyclists, and other nonoccupants) increased from a low of 20% in 1996 to a high of 34% in 2020.

U.S. DOT's NRSS and the Department's ongoing safety programs are working towards a future with zero roadway fatalities and serious injuries. The guiding paradigm of the NRSS is the Safe Systems Approach (SSA), which addresses roadway safety by building and reinforcing multiple layers of protection to prevent crashes and minimize the harm caused to those

involved when collisions occur. It is a holistic and comprehensive approach because it focuses on human mistakes and human vulnerability. SSA calls for a system with many redundancies in place to protect everyone.

With regards to the highway safety grant program regulations:

1. How can NHTSA, States, and their partners successfully implement NRSS and the SSA within the formula grant program to support the requirements in Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58)?

2. What non-traditional partners and safety stakeholders can the States work with to implement NRSS and SSA?

### Reducing Disparities and Increasing Community Participation

Traffic crashes are a leading cause of death for teenagers in America and disproportionately impact Black people, American Indians, and rural communities. Section 24102 of the Bipartisan Infrastructure Law requires State highway safety programs to provide "meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities."

In addition, Section 24102 requires that States "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." The following questions seek input on strategies to reduce traffic safety disparities:

3. How can the Sections 402, 405, and 1906 formula grant programs contribute to positive, equitable safety outcomes for all? How can states obtain meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities?

4. How can the formula grant program require practices to ensure affected communities have a meaningful voice in the highway safety planning process?

5. What varied data sources, in addition to crash-causation data, should States be required to consult as part of their Highway Safety Plan problem identification and planning processes to inform the degree to which traffic safety disparities exist on their roadways?

### Triennial Highway Safety Plan

Beginning in FY 2024, States will be required to submit a Highway Safety Plan (HSP) once every three years. The

<sup>1</sup> <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813240>.

HSP is a statewide, coordinated *behavioral* safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries. The HSP identifies a State's key behavioral safety needs and guides investment decisions towards strategies and countermeasures with the most potential to save lives and prevent injuries. As set out in the Bipartisan Infrastructure Law, the longer-term HSP should be designed to allow the States to better reflect on the countermeasures to be implemented and inform annual project selections to combat these increasing trends.

6. How can the triennial cycle best assess longer-term behavior modification progress and connect year-to-year activities in a meaningful way?

7. How can the triennial HSP account for strategies that are proportionate to the State's highway safety challenges?

8. What information is needed to ensure the HSP provides comprehensive, longer-term, and data-driven strategies to reduce roadway fatalities and serious injuries?

#### Annual Grant Application

To combat the increasing number of fatalities on America's roadways, NHTSA's stewardship role is to ensure that States leverage their funds most effectively to decrease the number of roadway fatalities. An essential aspect of this is ensuring transparency in the use of funds. NHTSA must ensure that Federal dollars are spent as effectively as possible and that sufficient details are provided so taxpayers know where funds are spent.

Section 24102 of the Bipartisan Infrastructure Law requires States to submit an annual grant application that demonstrates alignment with the approved triennial HSP. The annual grant application requires, at a minimum, "updates, as necessary, to any analysis included in the triennial highway safety plan," "an identification of each project and subrecipient to be funded by the State using the grants during the upcoming grant year, subject to the condition that the State shall separately submit, on a date other than the date of submission of the annual grant application, a description of any projects or subrecipients to be funded, as that information becomes available," a description of the means by which the strategy of the State to use grant funds was adjusted and informed by the previous report" and "an application for any additional grants" under Section 405 and 1906.

9. What data elements should States submit to NHTSA in their annual grant application to allow for full transparency in the use of funds?

10. What types of data can be included in the annual grant application to ensure that projects are being funded in areas that include those of most significant need?

#### Performance Measures

Performance management provides a framework to support improved investment decisions that guide States to focus on areas likely to have the most meaningful impacts on saving lives, preventing injuries, and reducing traffic-related healthcare and other economic costs. NHTSA and the Governors Highway Safety Association previously collaborated on a minimum set of performance measures to be used by States to develop and implement behavioral HSPs and programs. States establish safety targets and report progress for 12 core outcome measures, 1 behavior measure, and 3 activity measures. The measures cover the major areas common to State HSPs and use existing data systems. Except for the addition of a bicyclist performance measure in 2015, the measures were last updated in 2008.

11. Should these measures be revised? If so, what changes are needed?

12. Section 24102 of the Bipartisan Infrastructure Law requires performance targets "that demonstrate constant or improved performance." What information should NHTSA consider in implementing this requirement?

13. What should be provided in the Annual Report to ensure performance target progress is assessed and that projects funded in the past fiscal year contributed to meeting performance targets?

14. How can the Annual Report best inform future HSPs?

Issued in Washington, DC.

Under authority delegated in 49 CFR 1.95 and 501.5.

**Barbara Sauers,**

*Acting Associate Administrator, Regional Operations and Program Delivery.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1952

[Docket No. OSHA-2021-0012]

RIN 1218-AD43

### Arizona State Plan for Occupational Safety and Health; Proposed Reconsideration and Revocation

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Proposed rule; request for written comments; notice of informal public hearing.

**SUMMARY:** On June 20, 1985, the Federal Occupational Safety and Health Administration (OSHA) granted Arizona's occupational safety and health plan (State Plan) final approval under Section 18(e) of the Occupational Safety and Health Act of 1970 (the OSH Act). In this notice, OSHA proposes to revoke its affirmative determination granting final approval to the State Plan. If revocation is determined to be appropriate, the Arizona State Plan will revert to initial approval and Federal authority for discretionary concurrent enforcement would resume, allowing Federal OSHA to ensure that private sector employees in Arizona are receiving protections that are at least as effective as those afforded to employees covered by Federal OSHA.

#### DATES:

*Written comments:* Comments and requests for a hearing must be submitted by May 26, 2022.

*Informal public hearing:* Any interested person may request an informal hearing concerning the proposed revocation. OSHA will hold such a hearing if the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) finds that substantial objections have been filed. To allow for this possibility, the agency has tentatively scheduled an informal public hearing on this proposal, beginning August 16, 2022, at 10:00 a.m., ET. If necessary, the hearing will continue from 10:00 a.m. until 6:00 p.m., ET, on subsequent days. The hearing will be held virtually on WebEx. Additional information on how to access the informal hearing will be posted when available at <https://www.osha.gov/stateplans>.

Stakeholders should be aware that if, after reviewing the comments received during the written comment period, the Assistant Secretary finds that no substantial objections have been filed, then this informal public hearing will be cancelled. OSHA will provide notice in advance of the hearing date if the public hearing will not be held.

*Notice of intention to appear to provide testimony or question witnesses at the hearing:* Interested persons who intend to present testimony or question witnesses at the hearing must submit a notice of their intention to do so by May 11, 2022. Please note that a notice of intention to appear at the hearing is not the same as a substantial objection. To determine whether a substantial objection has been filed, the Assistant